



Australian Government
Department of Foreign Affairs and Trade

DFAT Country Report

People's Republic of China

3 March 2015

Contents

Contents	2
1. Purpose and Scope	3
2. Background Information	4
Recent History	4
Demography	4
Economic Overview	4
Political System	5
Security Situation	6
Human Rights Framework	7
3. Refugee Convention Claims	8
Race/Nationality	8
Religion	9
Political Opinion (Actual or Imputed)	10
Groups of Interest	11
4. Complementary Protection Claims	16
Arbitrary Deprivation of Life	16
Death Penalty	16
Torture	16
Cruel, Inhuman or Degrading Treatment or Punishment	17
5. Other Considerations	18
State Protection	18
Internal Relocation	19
Treatment of Returnees	20
Documentation	20

1. Purpose and Scope

- 1.1 This Country Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at the time of writing and is distinct from Australian Government policy with respect to the People's Republic of China.
- 1.2 Due to China's size, population, diversity and complexity, the report provides a general, rather than an exhaustive, country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.
- 1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that: Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.
- 1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source. The report also takes into account relevant and credible publicly available sources, including, but not limited to: The World Bank; The International Monetary Fund; The United States Bureau of Democracy, Human Rights and Labor; The United States Commission on International Religious Freedom; The Immigration and Refugee Board of Canada; Duihua; The United Nations Office of the High Commissioner for Refugees; The UN Office of the High Commissioner for Human Rights; The United Nations Development Programme; USAID; Human Rights Watch; Amnesty International; The Tibetan Centre for Human Rights and Development; International Campaign for Tibet; Radio Free Asia; CNN; BBC News Asia; Xinhua; Global Times; The New York Times; China Human Rights Defenders; The Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; The Committee to Protect Journalists; The Marriage Law of the People's Republic of China; The Population and Family Planning Law of the People's Republic of China; The Criminal Law of the People's Republic of China; The Law of the People's Republic of China on Resident Identity Cards; and the Chinese government's official web portal.
- 1.5 See also DFAT Thematic Report on Unregistered Religious Organisations and Other Groups (March 2015).

2. Background Information

Recent History

- 2.1 The People's Republic of China was proclaimed by Mao Zedong on 1 October 1949 following the Chinese Communist Party's (CCP's) victory against Chiang Kai-shek's Nationalist forces and their subsequent withdrawal to Taiwan.
- 2.2 Since 1979, China has undergone profound economic change following Deng Xiaoping's "reform and opening up" policy. China's economy has transformed from a poor, planned and primarily agricultural economy to become the second largest in the world. This has resulted in an unprecedented rise in living standards. The World Bank estimates 500 million Chinese have been lifted out of poverty since 1978.
- 2.3 Political change is evolving more slowly. Although Chinese citizens are able to exercise far greater personal choice in relation to employment, education, dress and travel, the CCP controls many forms of political expression and remains intolerant of organised opposition.

Demography

- 2.4 Mainland China has a population of 1.39 billion and a total land area of 9.6 million square kilometres. In 2013, the urban population accounted for 53.2 per cent of the total population. China has 90 cities with populations of more than one million people. China's largest city is the municipality of Shanghai (population 24 million in 2012). The municipality of Beijing (the capital) is the second largest (population 21 million in 2012).
- 2.5 Aside from the majority Han who account for approximately 92 per cent of the total population, the Chinese government officially recognises 55 other ethnic groups. Mandarin (Putonghua) is the national language prescribed by the state but there are currently 298 living languages in use. Mainland China consists of 22 provinces, five autonomous regions (the Inner Mongolia Autonomous Region, Xinjiang Uighur Autonomous Region, the Guangxi Zhuang Autonomous Region, the Ningxia Hui Autonomous Region and the Tibet Autonomous Region) and four municipalities (Beijing, Chongqing, Shanghai and Tianjin) that report directly to the central government.
- 2.6 China has achieved the Millennium Development Goals, however approximately 114 million people still live below the government's decreed annual poverty line of 2,300 RMB (approximately AUD 400). China is among the least equal 25 per cent of countries in the world, despite strong income growth amongst its poor.

Economic Overview

- 2.7 China is the world's second-largest economy (after the United States), the largest exporter of goods, second-largest importer of goods, the fifth-largest exporter of services and second-largest importer of services. China's economy achieved double-digit growth in the mid-2000s until the onset of the global financial crisis in 2008. Since then, economic growth has slowed as the government has focused on achieving more sustainable economic development. According to China's National Bureau of Statistics, China's gross domestic product (GDP) grew 7.4 per cent (year-on-year) in 2014.
- 2.8 China's gross national income per capita for 2013 (based on purchasing power parity) was \$11,850. The Asian Development Bank ranks China as an upper middle-income country. China's major cities have per-capita income levels equal to those of the poorest OECD member countries. Per capita incomes of urban households were nearly three times that of rural households in 2013. China's registered urban

unemployment rate (excluding migrants and private enterprises) was estimated to be 4.1 per cent in 2013.

- 2.9 China's 12th Five Year Plan (2011-15) set an annual growth target of 7 per cent in an effort to moderate the pace of growth. The Plan outlined measures to rebalance the economy away from resource-intensive, fixed-asset investment and export-driven growth towards greater domestic consumption and environmentally sustainable services-led growth. China's leaders elaborated on these goals during the Third Plenum meeting in November 2013 but emphasised the CCP's continued role as the core driver of the economic reform process.
- 2.10 China is the world's largest energy consumer, and accounts for half of the world's coal consumption. A key focus of economic reform measures is to improve the quality of the living environment. Air pollution continues to reach hazardous levels, particularly in the north-eastern provinces that are the location for heavy-polluting iron, steel and cement producing industries.
- 2.11 China's society is ageing rapidly owing to significant advances in the quality of and access to healthcare combined with decades of low fertility rates, due in part to family planning policies. China's demographic challenges, combined with high levels of income inequality, rapid urbanisation, challenges to environmental sustainability, as well as risks posed by a declining property market and significant levels of debt (particularly at the provincial level), pose challenges to future growth.

Health

- 2.12 China ranks 91 out of a total of 187 countries listed on the UNDP's 2014 Human Development Index. Average life expectancy at birth in China is 75.3 years but geographical variations, particularly between urban and rural areas, exist. The official retirement age is generally 60 years for men and 55 years for women.
- 2.13 China's fertility rate of 1.7 births per woman is below the replacement level of 2.1. Chinese society's traditional preference for boys combined with decades of China's family planning policy resulting in sex-selective abortions (despite government efforts to ban the practice) has contributed to a sex ratio of male to female births of 1:16.

Education

- 2.14 Despite a nine-year compulsory education policy, children in China attend school for 7.5 years on average, although the figure varies according to location. China's average literacy rate is 95 per cent.

Political System

- 2.15 China is a one-party state governed by the Chinese Communist Party. The Party's peak leadership body, the seven-member Politburo Standing Committee, is similar to a cabinet and is responsible in practice for making all key decisions on foreign and domestic policy. The head of the Party, General-Secretary Xi Jinping (concurrently President of the State and Chairman of the Central Military Commission) is a member of the Politburo Standing Committee. Standing Committee members are drawn from the subordinate 25-member Politburo, which in turn is drawn from the Party's central committee.
- 2.16 Policy decisions are enacted by China's government. The government is subordinate to the Party with the Party an integral element of the government structure. For example, top government officials at all administrative levels concurrently hold Party positions. These structures are replicated across the country's various administrative levels. The National People's Congress (NPC) is the highest State body, and is China's closest approximation to a parliament. The State Council is the most important administrative body of the central government. It oversees the implementation of policy decisions, as well as regulations and laws adopted by the NPC. The Premier (currently Li Keqiang) is head of the State Council and China's Head of Government. Premier Li is also a member of the Politburo Standing Committee.
- 2.17 Governments at the provincial level and below are responsible for the majority of public expenditure on health, education, unemployment insurance, social security and welfare. They have the power to enact their own regulations as a means of implementing laws adopted centrally. Below the provincial

level are prefectural-level administrative units, counties and county-level cities, and finally townships and towns.

2.18 The government has allowed “grass-roots elections” to take place every three to five years at the local (village) level in some provinces. This administrative level is outside the four-tier formal government system. According to China’s Election Law, any citizen can become a candidate as long as they are nominated by the Party or receive ten signatures supporting their candidacy. Candidates must be confirmed by Party-appointed local election committees, which publish final lists of candidates, set rules for campaigning and count and announce results. Candidates who have not been sanctioned are rarely successful.

Corruption

2.19 China ranks 100 out of 175 countries and territories measured on Transparency International’s 2014 Corruption Perceptions Index. On taking office, President Xi Jinping launched a nation-wide anti-corruption campaign. The campaign has resulted in the arrest of more than 60 officials of ministerial-level and above including former Politburo Standing Committee member Zhou Yongkang. This year, state-owned enterprises will also be a priority area for corruption investigations. Conviction rates for corruption cases are close to 100 per cent. Internal Party supervision is conducted by the Party’s Central Discipline Inspection Commission. The Party Central Committee’s Propaganda Department maintains media controls and, consequently, State media generally are not permitted to play a watchdog role. Authorities have detained some members of the public who have sought to publicise official corruption. Corruption will continue to be of interest for the purposes of this document.

“Guanxi”

2.20 “Guanxi” is the Chinese name given to a system that exists in many countries where progress in business or government relies heavily on patronage networks. Meaning literally “connection” in Mandarin, “guanxi” was historically expressed through the provision of gifts, meals and favours. Along with China’s rapid economic development, expensive gifts of branded cigarettes and alcohol or lavish banquets quickly advanced to gifts of large sums of money, property or title. The government has introduced a range of austerity measures to limit official hospitality in line with its anti-corruption campaign. Despite this, patronage networks and the notion of “building guanxi” remains important within Chinese culture, particularly in business and government, and can often be influential in a person’s ability to secure outcomes in their favour (such as access to senior officials, enrolment in better schools, universities, jobs or legal outcomes).

Security Situation

2.21 Security personnel and surveillance technology are ubiquitous throughout China. Their presence is often intensified around anniversaries considered politically sensitive or places of potential mass gatherings. Partly as a result, everyday street crime and violence in China’s major cities is generally low.

2.22 In 2013 the Chinese government announced an 8.7 per cent increase in its domestic security budget to 769.1 billion RMB (approximately AUD158 billion). In 2014 the figure for spending on domestic security was announced as 205 billion RMB but this figure included only central government spending and did not include funding from provincial and regional governments. China’s draft defence budget for 2014 estimated a rise by 12.2 per cent to 808.2 billion RMB (AUD165 billion); an estimated 2 per cent of total GDP; although actual spending was likely to be much higher.

2.23 China’s Ministry of Public Security has oversight of the 800,000-strong police force. The People’s Armed Police (a paramilitary force) has 1.5 million members. The People’s Liberation Army (PLA) reports to both the Party’s Central Military Commission and the State’s Central Military Commission (both of which are headed by President Xi Jinping). The PLA currently has 2.25 million members, almost all of whom are Party members. A new National Security Commission (NSC) led by President Xi Jinping was established in November 2013. The Commission is expected to strengthen coordination of both international and domestic security issues.

Human Rights Framework

- 2.24 China's Constitution provides for freedom of speech, the press, assembly, association and religious belief. Article 33 states that "all citizens of the People's Republic of China are equal before the law. The State respects and preserves human rights". In practice, however, China's Constitution is non-justiciable and these freedoms are significantly curtailed. China's one-party political system lacks effective safeguards to allow independent monitoring and investigation of human rights abuses by the state (such as an independent media, judiciary or National Human Rights Institution).
- 2.25 In May 2014, China issued its "White Paper on Progress in Human Rights in 2013", the 11th such report on human rights issued since 1991. The White Paper emphasised improvements in material standards of living over civil and political rights or ethnic and minority rights. China published its National Human Rights Action Plan (2012-2015) in June 2012.
- 2.26 China has ratified the following international human rights conventions: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. China has acceded to the International Convention on the Elimination of All Forms of Racial Discrimination. China has signed but not ratified the International Covenant on Civil and Political Rights.
- 2.27 China occasionally permits external examination of its human rights situation. Earlier UN visits have examined issues of education (2003); arbitrary detention (2004); torture (2005); and food (2010). In 2013, China accepted a visit from the Human Rights Council's working group on the issue of discrimination against women in law and in practice. China participated in its second Universal Periodic Review in October 2013. Although it agreed to allow visits by the Special Rapporteurs on Water and Health and Sanitation at the UPR, China is yet to schedule the visits.

3. Refugee Convention Claims

Race/Nationality

- 3.1 China's Constitution prohibits discrimination on the grounds of nationality and protects people's ability to both use and develop their own spoken and written languages as well as to preserve or reform their own folkways and customs.
- 3.2 At 92 per cent of the total Chinese population, the Han dominate the political, economic and social landscape in China. China's largest ethnic minorities include the Zhuang (who number approximately 16 million), followed by the Hui, Manchu and Uighurs who each number over 10 million. Tibetans and Mongols each number approximately 6 million. According to China's Constitution, the government upholds and develops a relationship of "equality, unity and mutual assistance" among all of China's nationalities.
- 3.3 China has 155 Autonomous areas (consisting of the five "regions" mentioned previously, as well as 30 "prefectures" and 120 "counties") distributed throughout its territory where people of one ethnic minority live in concentrated communities. These areas represent 44 of China's total 55 recognised ethnic minorities and account for 64 per cent of China's total territory. According to China's Constitution, autonomous regions have more legislative rights than provinces, including a certain degree of self-government (for example, senior government representatives can be drawn from the dominant ethnic group). But all autonomous areas are fundamentally considered inseparable parts of Chinese territory and are subject to central government policies. Official figures from 2011 indicate ethnic minorities represented approximately 14 per cent of delegates to the NPC and more than 15 per cent of NPC Standing Committee members.
- 3.4 In Tibet and Xinjiang (the only two autonomous regions where the ethnic minority represent the majority over the Han), the Chinese government has emphasised what it calls "leap frog development" (a government policy of enhanced economic growth, investment and development in order to improve livelihoods). Considerable investment by the government has improved material living standards. However, in some cases, rising numbers of migrants (mostly Han) have increased competition for economic opportunities, and altered traditional livelihoods and cultural practices. In some cases, these grievances have led to resentment and violence between Han and ethnic minority communities. The situation for Uighurs and Tibetans is compounded by broader religious, security and political issues and is discussed in greater detail below.

Ethnic Uighurs

- 3.5 Uighurs are a Turkic people native to Central Asia. Uighurs in China live mostly in the southern, poorer areas of the Xinjiang Uighur Autonomous Region (Xinjiang), as well as in Gansu, Qinghai, Tibet and Hunan. Uighurs account for around 45 per cent of the total population in Xinjiang and the Han Chinese account for around 40 per cent (an increase from the Han's estimated six per cent in 1949). In the capital Urumqi, 75 per cent of the population is ethnically Han. Uighurs are predominantly Sunni Muslims but also identify themselves according to a secularised cultural identity and in some cases, traditional Sufism. Average life expectancy in Xinjiang is slightly lower than the national average at 72.35 years.
- 3.6 The Chinese government has adopted a range of policies to preferentially benefit members of the Uighur community, including preferential access to education and employment and less restrictive limits on family size. However, these policies have been accompanied by increased restrictions on cultural and religious freedoms. According to Uighur groups and international human rights organisations such as Amnesty International, the Chinese government's policies of modernising Xinjiang's economy, maximising resource exploitation and encouraging Han migration have disproportionately benefitted the

Han and have undermined the Uighurs' religious and ethnic identity. Such groups claim these policies and the government's heavy security presence in Xinjiang have increased inter-ethnic tensions.

- 3.7 A number of violent incidents have occurred in Xinjiang in recent years, resulting in numerous Uighur and Han casualties. Riots in Urumqi on 5 July 2009 resulted in approximately 200 (mostly Han) deaths. More recently, terrorism incidents purportedly linked to Uighur separatists have occurred throughout Xinjiang as well as in Yunnan and Beijing. The government has consequently implemented a zero-tolerance campaign against separatists and terrorists and intensified the security presence across Xinjiang. The government has also carried out a series of high-profile prosecutions of persons with suspected linkages to violent incidents. In some cases the authorities have conducted group trials and mass sentencing hearings. The death penalty has been used in some cases purported to be directly linked to acts of terrorism. Some Uighurs have been given harsh sentences for their political views, including some well-known Uighur academics. Credible human rights organisation Duihua estimates there are several thousand Uighurs in prison for political crimes in China. Access to information about incidents of violence in Xinjiang, or related legal cases, is tightly controlled and difficult to verify.
- 3.8 Generally speaking, Hans and Uighurs living in Urumqi go about their daily lives in relative freedom, albeit mostly living and working in separate areas of the city. Middle-class Uighurs who speak Mandarin and who have been educated through the dominant Mandarin education system can integrate within Han society and lead normal lives in Urumqi, including having access to good jobs. However, DFAT assesses that such cases would be the exception rather than the norm. Uighurs with poor Mandarin skills may find it more difficult to find employment in Han-dominated companies. Some Uighurs report discrimination in other parts of the country, such as being denied accommodation at hotels or being subjected to regular security and police checks either out in the street or in their homes. It can be difficult for Uighurs to obtain passports or to leave Xinjiang to undertake domestic travel.

Ethnic Tibetans

- 3.9 There are over six million ethnic Tibetans in China, mostly residing throughout the Tibetan Autonomous Region (TAR) as well as ethnically Tibetan areas of Gansu, Yunnan, Qinghai and Sichuan. The Chinese government has invested significant financial resources into improving the economic living standards in the TAR in line with its "leapfrog development" policy. According to government statistics, 400 billion RMB (approximately AUD74 billion) has been invested since 1959. TAR officials have said that the region has a 15-year free compulsory education policy and residents could receive 75 to 95 per cent reimbursements for medical care. Officially, farmers and herders are exempt from paying agricultural taxes. The government has provided 90 per cent of farmers and herders with new government-built housing, although DFAT is aware of cases where Tibetans have been forced to give up their centrally-located land in exchange for government housing in city outskirts. Average life expectancy in the TAR is lower than the national average at 68.17 years, as are school attendance rates (which, according to UNDP, measured an average of 4.8 years in 2010).
- 3.10 Human rights organisations claim the benefits of development have been directed disproportionately towards Han migrants and have come at the cost of traditional Tibetan livelihoods, the environment, and religious freedom. Pro-Tibetan groups argue that these efforts have on occasion been forced on the population. Organisations such as Human Rights Watch have reported that efforts to maintain stability and encourage greater integration between ethnic Tibetans and the broader community have been accompanied by mass surveillance and propaganda campaigns.
- 3.11 On 14 March 2008, protests by Tibetan monks in Lhasa turned violent with numerous Han Chinese casualties. Chinese authorities detained a large number of Tibetans following the riots, some of whom received long prison sentences. According to Tibetan groups and media sources, there have been more than 130 self-immolations since March 2011 in protest against Chinese government policies in Tibet or in support of the Dalai Lama's return to Tibet. Tibetans associated with pro-independence or self-immolation protests account for more than a quarter of around 5,500 active cases on Duihua's 2013 Political Prisoner's Database. Tibetan groups have reported discrimination against and surveillance of Tibetans travelling in non-Tibetan areas of China.

Religion

- 3.12 Official statistics state there are around 100 million religious believers in China, including over 23 million Protestants, six million Catholics, and over 22 million Muslims. It is difficult to quantify the number of Daoists or Buddhists in China because of the mostly private nature of their faith. The Chinese

government claims there are about 5,500 religious groups in China, along with nearly one hundred religion-affiliated academic institutions and as many as 140,000 registered places of religious activity. Officially, there are 360,000 registered religious clergy. In reality, the number of religious believers is estimated to be much higher and rising, particularly among believers in unregistered religious organisations (see separate DFAT Thematic Report on Unregistered Religious Organisations and Other Groups).

Uighur Muslims

3.13 The Chinese government restricts devout expressions of the Islamic faith in some cases. In some cities and prefectures of Xinjiang, local authorities enforce bans against wearing full veils, growing beards, fasting by government officials or students during Ramadan or private religious education. Chinese law prevents people under the age of 18 from attending prayer at mosques. Authorities have increased surveillance of religious sites, including mosques, since recent attacks. Limits are put on the number of people doing the Haj. These measures have intensified existing tensions between the Uighur community and authorities. Uighurs can therefore be at risk of both official and societal discrimination and violence.

Tibetan Buddhists

3.14 The vast majority of ethnic Tibetans in China are Buddhist. According to China's 2013 White Paper on Human Rights, the state "respects the freedom of religious belief of all the people in Tibet, and ensures that they can practice their religions, conduct ceremonial activities, participate in major religious and folk festivals and engage in other normal activities of their own free will". Official statistics note there are currently 46,000 resident monks and nuns and 358 living Buddhas in Tibetan areas across China. The government encourages tourism to officially-sanctioned monasteries.

3.15 Tibetans who practice their religious faith within state-sanctioned boundaries are generally not at risk of official discrimination or violence but can be subject to restrictions nonetheless (such as the prohibition on displaying images of the Dalai Lama in some areas). Tibetans who engage in behaviour considered to be politically sensitive such as protests, self-immolations or support for such activities, including attending funerals of those who have self-immolated or gathering to pray in non-state-sanctioned monasteries can be more at risk of official discrimination and violence than those that do not. The government has detained monks and nuns suspected of supporting Tibetan separatism, or who actively support the exiled Buddhist spiritual leader, the Dalai Lama. Overt support for the Dalai Lama or the Tibetan government in exile is generally prohibited.

3.16 Owing to the respected historical influence of Buddhism in Chinese society and the relatively contained nature of Tibetan protests against government policies, DFAT assesses that, generally speaking, societal discrimination against Tibetan Buddhists on the basis of their religious belief is low, although suspicions about religious practice, when conflated with broader security and political concerns, can occur.

Political Opinion (Actual or Imputed)

3.17 Article 35 of China's Constitution states that citizens of the People's Republic of China enjoy freedom of speech, the press, assembly, association, procession and demonstration. China's White Paper on Progress in Human Rights states that "within the range allowed by the Constitution and other laws, the public can discuss political issues freely". Although article 41 allows citizens the right to criticise and make suggestions regarding any State organ or functionary... fabrication or distortion of facts for purposes of libel or false incrimination is prohibited".

3.18 In practice, however, the laws and regulations allowing the enforcement of these constitutional rights are not well developed. China's law requires all gatherings of people numbering more than 200 persons to obtain approval from public security authorities. The 1989 Law of Assemblies, Demonstrations and Processions means organisers of unapproved protests risk detention or prison sentences, often on public order charges.

3.19 The CCP has no tolerance for any form of dissent. There is some room for the expression of views on policy matters that don't involve questioning the legitimacy of the central authorities, for example, in relation to environmental concerns or, in limited circumstances, commentary on corrupt officials. There is no reliable guide for the tolerance of alternate political opinion, given the inconsistency of

enforcement across the country and the restrictions on the flow of information. Pre-emptive detention of activists and rights defenders is common around political anniversaries and other high-profile or “sensitive” events. Those publicly advocating greater human or civil rights, and calling for enforcement of the rights and protections enshrined in China’s Constitution have also been detained and charged under public order offenses. Provincial and local authorities have on occasion been harsh in their treatment of critics. Duihua’s Political Prisoners’ Database which records information about political and religious prisoners incarcerated in China since 1980 contained more than 28,000 entries (5,500 of which were considered active) at the end of 2013.

Groups of Interest

Protesters/petitioners

- 3.20 It is estimated there are between 150,000 and 180,000 popular protests every year; the vast majority of which concern: land disputes; housing problems; industrial, environmental, and labour matters; government corruption; taxation; and other economic and social grievances. Others are provoked by accidents or related to personal petitions, administrative litigation, and other legal processes. According to Duihua, detentions took place in 25 per cent of mass protests documented in 2013.
- 3.21 Despite recent reforms leading to improved legal protections for property ownership and compensation for expropriated land, protests and petitions related to land seizures by officials and the conduct of developers remain common in China. According to the State Bureau of Letters and Calls (the national department responsible for local petitioning offices), an estimated four million disputes resulting from expropriated land and property demolitions occur every year. DFAT is aware of reports describing aggressive, and sometimes violent, action by private security contractors hired by property developers to manage protesters.
- 3.22 China’s Constitution and State Compensation Law enables citizens to seek compensation from the state but the public’s confidence in the judicial system and ability to afford lawsuits is generally low. The Chinese government encourages Chinese citizens to submit complaints through government-controlled websites and local petitioning offices. Although extra-legal “black gaols” (informal, ad hoc, detention facilities set up by local authorities) have long been used to contain the rising number of petitioners, the Chinese government denied their existence during its most recent Universal Periodic Review. The government has announced a number of reform measures designed to improve transparency and responsiveness of the petition system. In November 2013, authorities announced plans to abolish a long-held system of ranking provincial authorities according to their ability to limit local petitioners and maintain social stability.

Non-governmental organisations (civil society organisations)

- 3.23 An increasing number of civil society organisations are emerging in China as a result of its economic liberalisation and the gradual shift away from the provision of state-led social services. Official statistics report that by the end of 2012, there were approximately 500,000 grassroots non-governmental organisations registered in China. In order to register legally, civil society organisations must be sponsored by a government agency, have a registered office, and hold a minimum amount of funds.
- 3.24 Organisations which operate in areas considered sensitive by the government (such as human rights advocacy, HIV/AIDS issues (see below) or migrant worker issues) can face difficulties obtaining a government sponsor or otherwise prefer to remain independent from government. In December 2013, the Ministry of Civil Affairs (the government body responsible for administering civil society organisations) announced plans to abolish the requirement for certain types of civil society organisations to obtain a government sponsor. Organisations considered to be “sensitive” by the government are unlikely to benefit from these proposed reforms.
- 3.25 DFAT assesses that employees of registered civil society organisations are able to operate free from official and societal discrimination and violence as long as they work within government restrictions and refrain from engaging in activities considered to be politically sensitive.
- 3.26 People engaged in unregistered civil society organisations that are not considered by the government to be sensitive are, generally speaking, also unlikely to face official discrimination or

violence, although it may be difficult for them to obtain legitimate employment records, work references or wages.

- 3.27 People associated with, or employed by, unregistered civil society organisations which are also considered to be sensitive are at risk of adverse treatment by authorities, landlords and neighbours. Reports of official and societal discrimination in the form of enforced evictions, power cuts, harassment and extortion are relatively frequent amongst these types of civil society organisations. Reports of societal violence, however, are generally low.

Human Rights Defenders (including Lawyers)

- 3.28 Lawyers in China are largely viewed by the government as civil servants rather than independent practitioners of the law. As a result, those that pursue cases considered by the government to be politically sensitive (such as those concerning Uighurs, Tibetans, Falun Gong practitioners, or those engaged in activities perceived to be “anti-government” in nature) risk adverse treatment by authorities, including discrimination, harassment, detention, and violence.
- 3.29 According to the United States Commission on International Religious Freedom, since 2011 more than 100 human rights defenders, many of who often work on political or religious freedom cases, were forcibly disappeared, tortured, detained, stripped of legal licenses, or sentenced to prison terms. DFAT assesses that such adverse treatment of human rights defenders has increased in recent years and that it is becoming more difficult for human rights lawyers to practice freely in China. As a result, human rights lawyers and other rights defenders are at risk of official discrimination and violence in China. However, due to the possibility of official reprisals, many human rights lawyers maintain a low profile and therefore societal awareness of their work, and any associated discrimination, is low.

Independent Media

- 3.30 Despite constitutional protections for freedom of speech, traditional print and broadcast media remain centralised and controlled by the CCP. According to the Committee to Protect Journalists, at least 44 journalists and online writers were in jail in China as of December 2014. China ranks as 175th out of a total 180 countries on the 2014 Press Freedom Index compiled by Reporters Without Borders.
- 3.31 By the end of 2013, Chinese internet users had reached 618 million and social networking website users had reached 278 million. The Freedom House “Freedom on the Net” 2014 report said China was the third most restrictive country in the world in terms of internet access. Ever since China installed “the Great Firewall” (the colloquial term for the government’s internet censorship and surveillance policy) in 2003, authorities have filtered select foreign websites including Facebook, Twitter, Google, Bloomberg, Google’s Gmail service and the New York Times.
- 3.32 While the rise of the internet has created a non-traditional space for the expression of political opinion in China, authorities have used increasingly sophisticated methods to limit the use of the internet for expressions of dissent. Media reports in 2013 suggested the Chinese government employed two million people to police the internet. News articles and social media posts that are considered to be politically sensitive by the government are regularly censored. The government has also introduced the netizens’ “quarter club”, who are paid a small amount each time they post a comment that is positive towards the government, as well as each time they report a negative comment to the authorities.
- 3.33 Although foreign social media applications are generally blocked in China, there are Chinese equivalents such as WeChat (China’s largest messaging service with 370 million users) and Weibo (China’s largest micro-blogging platform with 281 million users). These applications and all internet providers are required to provide authorities with “backdoors” to monitor exchanges between users. In addition, as of 2013, all internet users of micro-blogging sites are no longer able to post using pseudonyms, as the law requires users to register using their own names and telephone numbers. Similarly, individuals who wish to subscribe to phone and internet services must register using their real names and provide a copy of their National Identity Card (see Documentation below). The procuratorate has, at times, provided copies of censored Weibo posts and WeChat conversations to courtrooms as evidence of public order and subversion offences.
- 3.34 On 9 September 2013, judicial authorities issued a judgement that would allow an author of a libellous internet post to be subject to up to three years in prison if their post was reposted more than 500 times, read more than 5,000 times, led to mass protests, instigated ethnic or religious clashes, damaged the country’s image or caused “a bad international effect”. The publication of these guidelines

coincided with a wide-spread crackdown against online bloggers, journalists and other social media users.

- 3.35 DFAT assesses that journalists working for domestic media operate in China with a high degree of self-censorship and political awareness.

Women

- 3.36 Article 48 of the Chinese constitution states that women “enjoy equal rights with men in all spheres of life”. The Law on the Protection of Women’s Rights and Interests provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. Chinese women are eligible for 98 days of paid maternity leave.
- 3.37 Despite these measures, discrimination in education and work, sexual harassment, unfair dismissal, demotion, and wage discrepancies remain significant problems. Only 63.8 per cent of women over 15 years of age participated in the labour force compared to 78.1 per cent of men in 2012. On average, women reportedly earn 66 per cent that of men. Women remain underrepresented in senior CCP and government positions, holding only 23.4 per cent of the total number of seats in the NPC in 2013 and two of the 25 seats in the current Politburo.
- 3.38 The suicide rate for women is generally three times higher than for men. Rape is illegal and penalties range from three years in prison to a death sentence with a two-year reprieve and forced labour. The law does not currently address spousal rape. Domestic violence affects one quarter of women in China and is involved in nearly 10 per cent of intentional homicide cases. According to data released in October 2013 by a Beijing court, Chinese courts recognise less than 20 per cent of domestic violence claims brought before them. Refusal to accept cases of domestic violence brought before the courts is generally based on difficulties in collecting and verifying evidence. Statistics from provinces such as Guangdong and Shandong indicate even lower rates, ranging from two to 15 per cent. A draft anti-domestic violence law is being considered by the National People’s Congress.

Sexual Orientation and Gender Identity

- 3.39 China’s laws do not explicitly criminalise private consensual same-sex activities between adults. However, the Chinese government does not recognise de facto/same-sex partnerships and China’s Marriage Law only recognises marriage between a man and a woman. Homosexuality and bisexuality were removed from the Ministry of Health’s list of mental illnesses in 2001. Sexual orientation and gender identity that include lesbian, bisexual or transgender people are not explicitly dealt with in China’s existing anti-discrimination regulations. National laws allow transgender people to change their gender on ID cards and household registration if they have undergone full sex-reassignment surgery. Gender changes on other official documents, such as educational certificates, is not permitted. Censorship laws explicitly ban same-sex content in any form in movies and television. Workplace discrimination based on sexual orientation and gender identity is common and is not prohibited by any law or national regulation.
- 3.40 As with other civil society organisations that work on issues perceived by the government to be sensitive, LGBTI civil society organisations can experience difficulties registering legally, receiving funding and arranging public advocacy activities. Public opinion regarding homosexuality is gradually becoming more tolerant (particularly in China’s larger cities and regional urban hubs), but still remains predominantly negative. DFAT assesses that societal discrimination against LGBTI people exists but varies in frequency and severity depending on the location. Generally speaking, people in larger, wealthier cities in China - such as Beijing, Shanghai and Guangzhou - tolerate LGBTI people, and larger cities are starting to have LGBTI-friendly media and clubs. Public displays of affection between couples are generally discouraged, as they generally are for heterosexual couples. Smaller, more rural communities can be less accepting of LGBTI people owing to traditionally conservative views and a lack of education, although DFAT notes that data regarding the attitudes of people in China’s rural and western regions towards LGBTI issues is lacking. Some members of the LGBTI community have expressed concern that a rise in Christianity in China is leading to a rise in negative perceptions of homosexuality.
- 3.41 DFAT assesses that societal violence against LGBTI people is generally low, although lesbian and bisexual women are at particular risk of violence by family members and spouses. According to a 2009 survey of 900 lesbian and bisexual women about family violence, 48.2 per cent reported violence and abuse from parents and relatives, including involuntary committal to psychiatric wards. There have been

reports of family members forcing minors to undertake intense conversion therapy (although advertising and/or providing conversion therapy services is now illegal). LGBTI individuals can be at risk of domestic violence by family members who do not accept their gender identity or sexuality.

People living with HIV/AIDS

- 3.42 Figures issued by the Ministry of Health in conjunction with UNAIDS and the World Health Organisation in 2011 estimated there were 780,000 people living with HIV in China. At the end of 2012, new infections arising from homosexual transmission had risen to 29.4 per cent, overtaking injected drug use as the main source of new infections. The Chinese government has issued regulations on the Prevention and Treatment of HIV/AIDS that state "no organisation or individual shall discriminate against HIV/AIDS infectors or patients or their families, and that HIV/AIDS patients enjoy the rights to employment, medical care and others".
- 3.43 Despite these measures, a lack of understanding and public anxiety associated with HIV/AIDS issues has led to widespread stigma and discrimination in society, as well as in the health care and education sectors. People living with HIV are prevented from working in the civil service and some businesses have adopted this model by introducing HIV testing for employees and dismissal for those who test positive. Women with HIV are at particular risk of discrimination, particularly in rural areas where there is a widespread lack of education about transmission through blood transfusions.
- 3.44 DFAT assesses that people living with HIV/AIDS are at risk of official and societal discrimination in China. DFAT has no information about incidents of violence against persons living with HIV/AIDS.

People affected by Family Planning Policies

- 3.45 Nation-wide family planning policies have been implemented in China since the late 1970s. China's Population and Family Planning Law came into force on 1 September 2002. The State encourages late marriage and childbearing and generally promotes one child per couple, although exceptions to the "one child" policy have been permitted in situations where: both spouses are only children; the first child has a disability; both spouses are members of ethnic minorities; or, for rural residents, the first born child is a girl. In November 2013, the Chinese government announced an adjustment to the family planning policy to allow couples to have a second child if either parent is an only child. At the time of writing, Hainan, Shandong, Heilongjiang, Fujian, Jilin, Jiangsu, Guangdong, Hubei, Gansu, Sichuan, Shanghai, Beijing, Tianjin, Anhui and Zhejiang had amended their regulations to reflect the change.
- 3.46 In March 2013 the Population and Family Planning Commission was absorbed by the Ministry of Health. The combined National Health and Family Planning Commission is the body now responsible for overseeing the policy. Lower level governments right down to neighbourhood and village committees are responsible for the day-to-day implementation of the policy. Government departments, state media and schools are also all required by law to advocate family planning policies. As a result, interpretation and implementation of the policy varies enormously across China.
- 3.47 Compliance with family planning regulations is largely achieved in response to incentives or punishments. Social compensation fees (also referred to as "social maintenance fees") are the most common disincentive used to ensure compliance with the policy. Fees are to be calculated according to "last year's local disposable annual income per capita" in urban places, and "the net annual income per capita" in rural places. If the parents' actual income is higher than the average income, the actual income may be used as the basis for calculation. Each parent of an unapproved child is required to pay a social compensation fee. In some cases, this can amount to up to ten times a person's annual disposable income in social compensation fees. In some provinces or counties, authorities have imposed fines on entire work units in addition to the individuals concerned.
- 3.48 Revenues from fees are directed to county-level governments. The law does not set out a fee schedule that applies to all localities. Instead, provinces are empowered to formulate their own rules on specific fines based on the basic social compensation fee measure outlined above. Local authorities can decide whether to impose a more lenient fine based on whether or not the family has been compliant with the policy. Compliance or cooperation could mean reporting the birth of an out-of-plan child within a short timeframe. Uncooperative behaviour could mean hiding children or sending them away at the time of inspection by family planning authorities. Those that fail to pay the required fee can be subject to additional surcharges or have pressure placed on them by employers or the family planning bureau.

3.49 Local authorities occasionally launch campaigns to crack down on or prevent non-compliance with family planning policies. DFAT is aware of media reports indicating that coercive practices (such as forced abortions, sterilisations or invasive medical inspections) can be employed by authorities in order to force compliance. There is no reliable data on the frequency of coerced or forced abortions or sterilisations. Recent years have seen some high-profile media reports of late-term forced abortions, but observers believe such instances are becoming less frequent. DFAT is aware of reports that couples in violation of the policy, or their family members, have been beaten or detained, or have had their belongings, or those of their family, confiscated.

3.50 DFAT assesses that the inconsistent and non-transparent application of fees leaves open the possibility of individual or institutionalised corruption. Women are disproportionately affected by family planning policies because of regular medical inspections and pressure to use contraceptives. Pressure for government employees to both practise and promote family planning policies is high. Public opposition to family planning policies can be viewed as provocative by Chinese authorities.

4. Complementary Protection Claims

Arbitrary Deprivation of Life

- 4.1 Article 37 of China's Constitution states that freedom of the person of citizens of the People's Republic of China is inviolable. Some rights groups have claimed that police in western China have used lethal force to disperse unarmed groups of Uighurs who are protesting against religious restrictions. DFAT has been unable to independently verify these claims.
- 4.2 There are media and NGO reports of deaths in custody, both in detention facilities and black gaols, including for denial of access to proper medical care. DFAT assesses some of these claims as credible.

Death Penalty

- 4.3 China retains the use of the death penalty for 55 crimes, including a number of economic and non-violent crimes. Capital crimes include: "endangering public security" (such as arson, hijacking or the selling or producing of fake medicines); "smuggling" (including drugs, weapons or nuclear material); "disrupting the order of financial administration" (including counterfeiting currencies); and "infringing upon citizens' right of the person and democratic rights" (including homicide, rape, and trafficking). According to Article 347 of the PRC Criminal Procedure Law, individuals found guilty of trafficking narcotics in quantities of 50 grams or above shall be punished with 15 years' imprisonment, life imprisonment, or death. Double jeopardy laws apply in China and are outlined in Articles 8 to 12 of the Chinese Criminal Law. Pregnant women and people who are aged under 18 or over 75 years at the time the crime is committed are exempt from the death penalty. All death sentences are subject to the approval of the Supreme People's Court. Lethal injection and shooting have been employed as execution methods.
- 4.4 Courts can decide between a death sentence (without reprieve) and a death sentence with a two-year suspension of execution. According to China's Law, this latter punishment can be commuted to life imprisonment at the end of the two-year suspension period if no other intentional crimes have been committed during the period of suspension. If a person demonstrates "meritorious service" during their suspension period, they may be granted a reduction of sentence to 15 to 20 years' imprisonment.
- 4.5 China confirmed in its second Universal Periodic Review Report in 2013 that it would continue to reduce, although not abolish, the use of the death penalty. Although the number of executions remains a state secret, Duihua estimates approximately 2,400 people were executed in 2013.

Torture

- 4.6 China ratified the Convention Against Torture in 1988. Chinese law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases, took effect on 1 January 2013.
- 4.7 While some time ago, the UN Special Rapporteur on Torture, Inhuman and Degrading Treatment found in 2005 that "reports of torture remained widespread in China". It is difficult to verify the extent to which high-profile legal action against police found to have used torture to secure confessions has led to a decrease in the practice. According to victims' complaints of alleged torture received by the UN between 2000 and 2005, Falun Gong practitioners represented the majority of cases. Other complaints were received from Uighurs, sex workers, Tibetans, human rights defenders/activists, political dissidents and

other groups (including members of religious groups and those infected with HIV/AIDS). The Chinese government has said it recognises the need to address the issue of police brutality and has announced efforts to stop the practice where it exists. China has recently announced plans to abolish the “quota” system tied to promotions for local law enforcement. This was touted as an attempt to avoid police using torture to achieve increased efficiency in the justice system.

Cruel, Inhuman or Degrading Treatment or Punishment

Arbitrary Arrest and Detention

- 4.8 The Chinese government announced plans to abolish the controversial “re-education through labour” policy in November 2013. Public security authorities continue to use other forms of administrative detention to suppress political and religious dissidents, sex workers, drug users and petitioners. Individuals facing this type of detention do not have the right to legal counsel or due process.
- 4.9 Political prisoners are often subjected to deprivation of political rights (which legally allows China to deprive a criminal of the right to freedom of speech, assembly, association, procession, demonstration, vote and holding a position in a state organ) after completing a prison term. This can involve a prisoner, on release, being placed under house arrest for several years or even being relocated to a black gaol. Former prisoners and individuals serving deprivation of political rights sentences can face difficulties finding employment and places of residence, travelling freely, and accessing social services. Prisoners and their families have reported harassment or threats, including police surveillance, telephone wiretaps, property and body searches.
- 4.10 China’s revised Criminal Procedure Law allows suspects accused of ‘endangering state security’, major bribery or terrorism to be detained in unspecified locations for up to six months without notice to family members.

5. Other Considerations

State Protection

- 5.1 China's Constitution (Article 5) states that "no laws or administrative or local regulations may contravene the Constitution. All State organs, the armed forces, all political parties and public organisations and all enterprises and institutions must abide by the Constitution and other laws. All acts in violation of the Constitution or other laws must be investigated. No organisation or individual is privileged to be beyond the Constitution or other laws".
- 5.2 In practice, the basic rights enshrined in China's Constitution are not translated effectively into enforceable legislation. The absence of the meaningful separation of power between the executive and judiciary also limits the ability of judicial authorities to act with independence.

Police Powers

- 5.3 Chinese police have broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charge. Police detention beyond 37 days requires prosecutorial approval of a formal arrest and family members should be notified within 24 hours of detention. However, the law is flexible in that it permits officials not to provide notification if doing so would "hinder the investigation" of a case. During periods and anniversaries considered politically sensitive by Chinese authorities, activists and human rights defenders have been detained without charge for the 37 day period.
- 5.4 Residential surveillance at a designated place away from a person's home is permitted in law for up to six months, if the suspected crime relates to endangering state security, terrorism, or serious bribery and when it is believed that surveillance at the suspect's residence would "impede" the investigation. Authorities are required to notify relatives of individuals placed under formal arrest or residential surveillance in a designated abode within 24 hours, unless notification is impossible. Authorities are not required to specify the reason or location for the detention. Authorities can also prevent defence lawyers from meeting with suspects in these categories of cases. Under the revised criminal procedure law, and in cases involving state security or terrorism, police are authorised to detain a suspect after arrest for up to an additional seven months while the case is investigated. Following investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. The law stipulates that detainees be allowed to meet with defence counsel before criminal charges are filed but in cases considered politically sensitive, this rarely happens in practice. If charges are filed, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings.

Police Capabilities

- 5.5 The Ministry of Public Security coordinates the country's civilian police force, which is organised into specialised police agencies and local, county, and provincial jurisdictions. Generally speaking, China has a responsive and well-resourced police force. Police undertake four-year training programs that include courses in procedural law, public order and extensive physical training. Performance is statistics-driven and a national ranking system provides incentives for compliance. Local-level police are generally entitled to receive housing and food allowances as part of their monthly salaries, which are calculated according to local conditions rather than a national standard.
- 5.6 Maintaining public order and social stability are the key priorities for the police force in China. Regular police do not generally carry firearms but can do so in areas of heightened security (such as in Xinjiang). Reflecting the power held by the Ministry of Public Security, procuratorate oversight of the police is generally limited.

5.7 Chinese citizens have the right to lodge complaints against the police in their city of residence through a telephone hotline, online complaints website, in person, or in writing to the Complaints Office housed within the Public Security Bureau. Petitioners (including those who lodge complaints against police) can be targeted by authorities and placed in short-term arbitrary detention (for more information, see 3.22).

Judiciary

5.8 The government has announced reforms to improve accountability and limit corruption within the judiciary. For example, the Supreme People's Court is developing methods to broadcast trials on television and on the internet. Amendments to China's Criminal Procedure Law which took effect in January 2013 aimed to improve conditions for general criminal proceedings, including the exclusion of evidence obtained through torture, greater access to lawyers, and cross-examination of witnesses. The revised law requires the prompt delivery of suspects to detention facilities following arrest, the requirement that interrogations be performed in the detention facility, and that audio and video recordings of the interrogation process take place. The revised law also requires investigation of cases of extortion of confessions under torture by judicial officials. DFAT has been told that the revised criminal procedure law has improved the ability of criminal defence lawyers to meet with clients (but only in cases that are not considered sensitive). As noted, the absence of any separation of powers at any level creates structural vulnerabilities within the judicial system that could be exploited in cases that are considered politically sensitive or involve vested economic or political interests. Duihua estimates that China convicted over 99 per cent of criminal defendants in 2013.

Detention and Prison

5.9 Chinese law provides for prison conditions to be ventilated, clean and warm with natural light. Prisons are required to provide adequate medical, living, and sanitary facilities. In practice, the lack of transparency into China's legal system makes it difficult to comment on prison conditions. In general, conditions vary depending on the location, resources available, training of prison or detention guards, and perceived level of political sensitivity and profile of the individual concerned.

5.10 Detainees can be held in overcrowded conditions, be required to sleep on the floor and be denied regular exercise. Generally speaking, meals are regularly served but nutritional quality is poor and quantities are small. Many detainees rely on supplemental food, medicines and warm clothing provided by relatives, although these privileges are sometimes denied as a form of punishment, particularly for political dissidents. Adequate medical care for prisoners is not always assured. Conditions in administrative and pre-trial detention facilities are often worse than those in prison.

Internal Relocation

5.11 There are many opportunities for internal relocation in China and since the economic reforms of the late 1970s and 1980s, many tens of millions of Chinese people have moved, particularly from rural to urban areas. Such movement is an important element of China's push for continued economic growth and urbanisation. Freedom of internal movement is hindered by the hukou (household registration) system.

Hukou (household registration) system

5.12 The hukou system ties access to government services, such as education above a certain level and health, to a citizen's place of birth, or even their parents' place of birth, rather than their place of residence. Only 35 per cent of urban Chinese are estimated to have an urban hukou. Chinese migrant workers (officially 174 million, but in practice likely to be many more) who move away from rural areas for better employment opportunities, are therefore unable to access key services and in some cases face institutionalised discrimination. Some estimates claim 60 to 100 million children have been left in their grandparents' care while their parents work in cities. On 30 July 2014, China's State Council announced plans to replace the existing urban and rural hukou system with a pilot residence permit system for cities with populations below five million people.

5.13 Linguistic and cultural barriers are not an inhibiting factor for ethnically Han Chinese to move away from their place of hukou registration. However, this may not be the case for members of ethnic

minorities. Those involved in activities considered politically sensitive are unlikely to face better or worse treatment elsewhere in China.

Treatment of Returnees

- 5.14 China is a signatory to the 1951 Refugee Convention but does not have a refugee status determination procedure. The UNHCR, rather than the Chinese government, has the authority to grant refugee status within China. As at January 2014, China had 301,047 (non-Chinese) refugees and 380 (non-Chinese) asylum seekers residing in China. The UNHCR was not able to provide statistics on returned refugees.
- 5.15 According to the United States Bureau of Democracy, Human Rights and Labor, the Chinese government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans in 2013. The Chinese government has repatriated North Korean defectors viewing them as economic migrants.

Exit and Entry Procedures

- 5.16 Chinese law provides for foreign travel, emigration, and repatriation. A number of agencies within the Ministry of Public Security hold responsibility for monitoring entry and exit procedures at Chinese airports, including the Public Security Bureau, the Entry and Exit Authority, and the Frontiers Inspection Bureau. China's major airports have a centralised system with name matching alert capabilities. Security monitoring capabilities at major airports are comprehensive.

Documentation

Birth and Death Certificates

- 5.17 Birth registration rates are generally low in China, particularly in rural areas and for marginalised children. An official birth certificate system was introduced nation-wide in 1996 based on the Law of the People's Republic of China on Maternal and Infant Health Care. Medical birth certificates can be issued by the Ministry of Public Health through the hospital or facility where the child is born. Births must be registered in the police station according to the parents' hukou. Credible sources have told DFAT that family planning records are the most important documents required for the issuing of hukou status which are assessed by the relevant branch of the Ministry of Public Security. Procedures for registering deaths in China vary by area and location of death. Death certificates are usually issued by the Ministry of Health and are required to cancel hukou registration and to bury the deceased.

National Identity Cards

- 5.18 Citizens over the age of 16 are required to apply for identification cards while those under 16 years can voluntarily apply with the assistance of a guardian. ID cards are managed by the Public Security Bureau and are issued according to the 2003 Law on Resident Identity Cards. Cards are valid for five years (for those under 16), ten years for those aged between 16 and 25 years, twenty years for individuals between 26 and 45 years and permanently for individuals aged 46 years or older.
- 5.19 Use of China's latest (second generation) resident identity cards (RICs) became mandatory in 2013. RICs include the cardholder's name, sex (male or female), ethnicity, date of birth, residential address, a unique 18-digit ID number and coloured photograph. Embedded digital microchips in each card can also contain the same identifying information as well as work history, educational background, religion, ethnicity, police record, medical insurance status, landlord's phone number, and reproductive history. Cards issued in ethnic minority areas contain corresponding text in the minority language. Han Chinese in ethnic minority autonomous regions are only permitted to have text listed in Mandarin.
- 5.20 Applicants are required to complete a Registration Form of Application for Resident Identity Card and present their resident household registration book for examination by public security authorities. Costs for the issuance of new or renewed cards vary according to location and the circumstances of the applicant. For example, the law allows for exemption from payment for urban residents who receive subsistence allowances and rural residents who live in "specially straitened" circumstances. Disciplinary

warnings, fines (ranging from 200 to 1,000 RMB – approximately AUD40 -200) and detention up to ten days, can apply if a person is found to have breached the Law on Resident Identity Cards. Forgery of cards is considered a criminal act.

- 5.21 The technology used for second-generation cards is reportedly difficult to counterfeit. As of 2013, Beijing has introduced trials to include fingerprints on the cards making it more difficult to forge. Card readers have been installed in such places as banks, customs, train stations and airports. ID cards are required for residential permits (hukou), employment, opening bank accounts, obtaining passports and driver licenses, applications for tertiary study and technical colleges, travel by plane or train, as well as marriages and legal cases. Internet cafes and some shops also require proof of identity.

Passports

- 5.22 According to the Passport Law of the People's Republic of China (2006), ordinary passport applicants are required to apply in person to the Entry-Exit Control Department of the Ministry of Public Security or their designated bureaus where hukou is registered. Applicants must provide their resident identification card, resident household registration book, recent photos and other materials related to the reasons for their application. Approved applications are generally issued within 15 to 30 days. If a passport application is refused, reasons for the refusal must be provided in writing and the applicant is to be informed of their right to apply for administrative reconsideration or to file an administrative lawsuit. Costs of passport processing vary according to location but are generally considered affordable.
- 5.23 The items to be registered in an ordinary passport consist of the holder's name, sex, date and place of birth, the date of issue, term of validity and place of issue of the passport and the issuing authority. The term of validity of an ordinary passport varies according to age of the passport holder. Passports are both readable visually and by computer and contain anti-forgery properties. Those who sell or use forged passports can be subject to criminal charges.
- 5.24 Authorities can refuse to issue passports for people who are believed "will undermine national security or cause major losses to the interests of the State". According to the US Congressional-Executive Commission on China, in 2013 an estimated 14 million people were affected by restrictions on foreign travel and acquiring passports, many of them religious and political dissidents, including Uighurs and Tibetans. The government does not publish figures on those who have been denied passports.
- 5.25 Uighur and Tibetan applicants are required to obtain approvals from provincial authorities and the applicant's hometown public security bureau; a process which can take longer than the standard 15 to 30 days. Similarly, Uighur and Tibetan students require approval by university administrators. DFAT is aware of cases where human rights activists, lawyers, Uighurs and Tibetans have had their passports confiscated as punishment for their political activities or in an effort to limit the risk of such individuals causing potential embarrassment to the Chinese government when overseas.

Prevalence of Fraud

- 5.26 DFAT assesses it would be difficult to depart China on a fraudulent passport owing to the sophisticated technology used and the degree to which surveillance by immigration and security agents occurs at China's major airports. Overt bribery of border protection agents by an ordinary Chinese citizen would be difficult because of sensitivities to corruption, the professional and comparatively well-paid status of the Public Security Ministry, and the high-profile nature of its work. DFAT is aware of fraudulent documents being used in support of visa applications (such as hukou registration, proof of employment, academic transcripts, banking statements and ID cards). DFAT assesses these documents are relatively easy to produce and are commonly used in visa applications. DFAT has been told of the existence of sophisticated syndicates that service call centres set up specifically to provide targeted background stories in support of fraudulent documents used in visa applications.



Australian Government
Department of Foreign Affairs and Trade

DFAT Thematic Report

Unregistered religious organisations and other groups in the People's Republic of China

3 March 2015

Contents

Contents	2
1. Purpose and Scope	3
2. Background Information	4
Historical overview of religion in China	4
Government Framework	4
Demography	5
3. Refugee Convention Claims	6
The rise of unregistered Christian groups in China	6
Protestant Christians	7
Unregistered Catholic Organisations	7
Other Groups, including “cults”	8
4. Other Considerations	12
State Protection	12
Internal Relocation	12

1. Purpose and Scope

1.1 This Thematic Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at the time of writing and is distinct from Australian Government policy with respect to the People's Republic of China.

1.2 Due to China's size, population, diversity and complexity, the report provides a general, rather than an exhaustive, country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that: Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source. The report also takes into account relevant and credible publicly available sources, including, but not limited to: The United States Commission on International Religious Freedom; Duihua; China Online Studies Centre; The UN Office of the High Commissioner for Human Rights; International Christian Concern; China Aid Association; Billion Bibles; South China Morning Post; People's Daily Online; China Daily Online; The Guardian; The Global Times; Xinhua; Financial Times; The New York Times; Time Magazine; CNN; BBC News Asia; Human Rights Watch; Amnesty International; Regulations on Religious Affairs of the People's Republic of China; The Criminal Law of the People's Republic of China; and the Chinese government's official web portal.

1.5 See also DFAT Country Report for the People's Republic of China (March 2015).

2. Background Information

Historical overview of religion in China

2.1 China is a religiously diverse country. Its ethnically varied population and long history of trade and engagement with foreign influences have resulted in a rich and complex society of faiths, belief systems and organised religious groups.

2.2 Confucianism, Taoism and Buddhism constitute the "three teachings", a philosophical framework which historically has had a significant role in shaping Chinese culture, including traditional folk religions. Although Christianity has been present in China since the 7th century, the rise of Christianity in China was promoted by Protestant Christian missionaries who became active in the nineteenth century. Catholics became active in China in the late thirteenth century.

2.3 The establishment of the People's Republic of China in 1949 under the control of the atheist Chinese Communist Party (CCP) resulted in the expulsion of Christian missionaries and the establishment of "Patriotic Associations": government-affiliated organisations which seek to regulate and monitor the activities of registered religious organisations on behalf of the CCP.

2.4 Religious practice was forced underground throughout the Cultural Revolution (1966-1976) and people began to practice their religious faith in secret. This led to the development of so-called "underground" religious movements. State-sanctioned religious practice re-emerged under Deng Xiaoping's "Reform and Opening" policies in the late 1970s and 1980s. Han Chinese Buddhists and Daoists, in particular, have enjoyed greater freedom as Chinese leaders use such traditions to promote Chinese cultural identity to both a domestic and international audience.

2.5 The Party is also increasingly willing to recognise and support the philanthropic activities of registered religious groups, particularly in disaster relief, health care and poverty alleviation. At the same time, members of religious faiths that are perceived by the government to be potentially threatening can be met with suspicion and government controls. Members of overseas-affiliated Christian organisations, Tibetan Buddhists and Uighur Muslims, in particular, can face interference, harassment, and at times, violence (see DFAT's Country Report on China, March 2015 for a more detailed discussion of Tibetan Buddhists and Uighur Muslims). This report primarily discusses conditions for unregistered Protestant Christians, Catholics, and members of Falun Gong and other so-called "cult" organisations currently operating in China.

Government Framework

2.6 Article 36 of China's Constitution states that citizens of the People's Republic of China enjoy freedom of religious belief and that no state organ, public organisation or individual may compel citizens to believe in, or not to believe in, any religion. Discrimination on religious grounds is prohibited in theory.

2.7 The conditions governing the establishment of religious bodies and religious sites, the publication of religious material, and the conduct of religious education and personnel are outlined in the Regulations on Religious Affairs (RRA) which came into effect in 2005. At the national level, the CCP's United Front Work Department, State Administration for Religious Affairs (SARA), and the Ministry of Civil Affairs provide policy guidance and supervision on the implementation of the regulations. Local authorities, including provincial religious affairs bureaux, have significant discretion in implementing the regulations.

2.8 The Chinese government limits religious practice to five religions (Buddhism, Taoism, Islam, Catholicism and Protestantism) and members are required to register with the government's Patriotic Associations mentioned above. These organisations are overseen by SARA and are required to adhere to the principles of independence and self-governance from foreign associations. Registered religious organisations

are permitted to possess property, publish literature, train and approve clergy, collect donations and conduct charitable activities. Government subsidies are available for the construction of state-sanctioned places of worship and religious schools.

2.9 Proselytising is permitted in registered places of worship and in private settings but not in public or by foreigners. Distributing unapproved literature and associating with unregistered religious groups is also not permitted. Theological restrictions are imposed on some religions. For example, Chinese Protestants are expected to be non-denominational, and Catholics are required to be independent from the Vatican. In the past, Chinese non-governmental institutions (NGOs), including religious organisations, were permitted to receive donations in foreign currency and favourable tax treatment could apply if the funds were used for charitable activities. However, draft NGO regulations submitted to the National People's Congress in December 2014 may ban NGOs in China that are mainly funded or have close links to foreign organisations. The draft has not yet been made publicly available and DFAT is not able to comment on the extent to which religious NGOs in China will be affected by the new regulations should they be passed/agreed.

2.10 While the Chinese Constitution protects religious activities within the patriotic religious organisations' framework, the government does not generally tolerate activities that are perceived to disrupt public order, harm the health of citizens or interfere with the state education system. Religious groups that fail to affiliate with one of the five official patriotic associations are considered illegal. As a result, they can be vulnerable to coercive and punitive action by authorities and denied legal protection under Chinese law.

2.11 Broadly speaking, DFAT assesses religion in China can be practised within state-sanctioned boundaries, as long as such practices do not challenge the interests or authority of the Chinese Government. Religious adherents are therefore subject to a range of restrictions that vary in extent and intensity according to local conditions. Given this, it is difficult to generalise about religious practice in China but basic assumptions can be made according to whether people exercise their faith in registered or unregistered institutions, whether they practice openly or privately, and whether or not religious expression is perceived by the government to be closely tied to broader ethnic, political or security policies.

Demography

2.12 It is difficult to provide exact figures on the number of religious believers in China. Chinese government statistics state there are approximately 100 million religious believers in total, including over 23 million Protestants, six million Catholics, and over 22 million Muslims. Officially, there are approximately 5,500 religious groups, along with nearly one hundred religion-affiliated academic institutions and as many as 140,000 registered places of religious activity. The Chinese government states there are 360,000 registered clergy.

2.13 In practice, the number of religious believers is estimated to be much higher and rising, particularly among believers in unregistered Protestant Christian organisations, whose numbers approximate 70 to 100 million. DFAT assesses as credible estimates that there are approximately 12 million Catholics (approximately seven million of who belong to "underground" churches not affiliated with the government-sanctioned Chinese Catholic Patriotic Association). Around 50,000 new Catholics are baptised in state-recognised churches every year.

2.14 Several hundred million people are influenced by popular Buddhism, Daoism and "folk religion". Despite the atheist nature of the ruling CCP, as many as 25 per cent of Party officials are estimated to engage in some type of religious activity (mostly associated with Buddhism or folk religion).

3. Refugee Convention Claims

The rise of unregistered Christian groups in China

3.1 SARA permits friends and family to hold small, informal prayer meetings without official registration. This, combined with the controlled nature of religious worship amongst registered Christian institutions, has led to the proliferation of a sizeable unregistered Christian community in both rural and urban China. Known as “house” or “family” churches (for Protestant organisations), and “underground” churches (for Catholic organisations) these bodies are private religious forums that adherents create in their own homes or other places of worship.

3.2 House churches can be found across China and vary in size and religious practice. Gatherings of 30 to 40 people are generally tolerated, although DFAT is aware of cases where gatherings of fewer people have attracted negative attention by authorities. On the other hand, there are also some house church congregations that number in the thousands and are able to operate with little to no interference from local authorities. A number of house churches are known to restrict their own size and activities so as to avoid official attention.

3.3 Members of both unregistered and registered religious organisations can face adverse attention by authorities when: they are perceived to have links with foreign influences (either through personnel or funding); are critical of the government or advocate for issues considered political or sensitive by the government; belong to large and potentially influential networks; are engaged in other criminal activities; or are operating in provinces or local settings where corruption is prevalent, and the potential for extortion and running afoul of local authorities' favour, is potentially higher. Occasionally, anti-crime campaigns with quotas for a certain number of arrests can also prompt local officials to crack down on Christian activities that had previously been tolerated.

Availability of Bibles

3.4 The majority of bibles in China are printed by a joint venture between the United Bible Society and the Amity Foundation whose factory is located in Nanjing. The Three Self Patriotic Movement (TSPM – see below) and the China Christian Council (CCC) distribute an average of 3.5 million copies of the Bible per annum to approximately 57,000 churches in China, including the unregistered churches. These organisations are the only entities allowed to print and distribute the Bible in China.

3.5 Sources claim the TSPM imposes a limit of two bibles per person and identification must be shown when purchasing bibles so the government can ensure quotas are not being exceeded. The government closely monitors the private importation of published materials and it can be risky for a person to carry multiple copies of the same material brought from overseas. Credible sources have told DFAT that, generally speaking, up to 50 copies of different items and up to five copies of the same item would be considered the maximum limit on personal use but conditions can vary according to location and whether or not customs officials are vigilant in checking personal belongings. In the last 10 years an estimated 200 registered Christian bookstores and nine domestic Christian publishers have opened in China. Despite the internet restrictions in place (see DFAT Country Report), a limited number of Chinese language websites can be accessed to read Bible passages. In Shanxi province in 2013, two Christian bookstore owners were reportedly sentenced to five and two years' imprisonment for operating an “illegal business”. DFAT assesses that bibles are generally available and affordable in China, particularly in larger, urban areas.

Protestant Christians

3.6 The Three-Self Patriotic Movement (TSPM) was established in 1949 to oversee China's "post-denominational" (i.e. non-denominational) Protestant church. The "Three-Self" is a Chinese abbreviation for the church's three principles of self-administration, self-financing and self-evangelisation. There are approximately 60,000 registered Protestant churches under the supervision of the China Christian Council (CCC) and the Three Self Patriotic Movement, as well as several hundred thousand affiliated meeting points. Approximately 200 pastors graduate every year from China's one seminary and 20 Bible schools run by the CCC. Qualifications from foreign seminaries are not officially recognised in China.

3.7 Unregistered Protestant churches tend to have more theological freedom than state-sanctioned churches but risk adverse treatment by authorities due to their unregistered status. As members of "illegal" organisations, unregistered Protestant church members can experience harassment, raids and destruction of church property, pressure to join or report to the government-sanctioned religious organisations, and occasional violence and criminal sanction, particularly in response to land disputes with local authorities. For example, authorities have been known to apply indirect pressure on house churches by cutting off electricity or forcing landlords to evict house church members.

3.8 In 2013, the Zhejiang provincial government launched a "three rectifications and one demolition" campaign. According to the provincial government's website, the campaign was launched to improve cities' landscapes and urban planning, as well as "push economic development". The three-year campaign requires old residential areas, old factories and "urban villages" to be renovated and for illegal structures to be demolished. As of September 2014, more than 300 church crosses had been removed under the policy, many of them state-sanctioned churches. Some media reports have speculated that the policy is an attempt to limit the influence of the Christian church. In response to criticisms about the campaign, the government has stated that the campaign had been implemented "with fairness and justice. ... No matter what background [the building has], we tear down what should be torn down, with no exceptions and no sparing of feelings". The Zhejiang chapters of the Three-Self movement and the Christian Council have also urged believers to "obey the government ...in order to establish a good image for Protestantism".

3.9 Some members of house churches are able to move freely between registered and unregistered churches, for example, they may be permitted to use registered facilities as a place to hold weddings or to purchase bibles. However, this arrangement does not apply to all unregistered church goers, some of whom report difficulties in hiring hotel or restaurant venues for weddings because of their association with illegal (unregistered) church organisations. Registered churches are able to organise their own activities as long as they accord with government regulations.

3.10 DFAT is aware of a number of police raids imposed on at least eight unregistered Protestant churches in Guangzhou in September 2014. In 2013 unregistered churches in Shandong, Inner Mongolia and Xinjiang were forcibly closed after they refused to register with the state-sanctioned Three-Self Patriotic Movement (TSPM).

3.11 One of the largest house churches in Beijing, the Shouwang Church, has repeatedly resisted attempts by the government to register with the TSPM (the congregation numbers in the thousands). Members collected US\$6 million in donations to purchase a place of worship but the sale was cancelled following pressure by the authorities. An attempt to rent a large conference room was also cancelled some months after the initial proposal had been agreed. Members eventually started to hold outdoor worship services.

3.12 Members who have persisted in attending worship services at the Shouwang church-designated outdoor venue have been subject to repeated detention, intimidation and harassment. Five church leaders have reportedly been under house arrest since 2011. The church's website is frequently blocked. Credible sources have told DFAT that members have repeatedly been detained for five and seven day periods but had received relatively good treatment in detention because they had been peaceful and cooperative with authorities.

Unregistered Catholic Organisations

3.13 Catholic activity has been growing steadily in China for three decades. The Chinese Catholic Patriotic Association (CPA) has managed Catholic affairs in China, including the appointment of Bishops, since 1957. The CPA does not recognise the authority of the Holy See to appoint bishops. From 1993 until 2010, the Vatican and CPA had struck an informal arrangement in some provinces, where the Vatican had some

discreet input or even right of approval for bishop candidates prior to their ordination by the CPA. However, since 2010, the majority of bishops were ordained by the CPA without Vatican input. In April 2013, the CPA announced the Regulation on the Election and Consecration of Bishops, requiring candidate bishops to publicly pledge support for the CCP.

3.14 Catholics who refuse to acknowledge the authority of the CPA have been described as “underground” or “unofficial” Catholics. There are approximately 40 Catholic bishops that remain independent of the CPA and operate unofficially.

3.15 In the past, local authorities required priests to submit sermons and prayers in advance for approval and to regularly provide names and addresses of congregation members. Credible sources have told DFAT this was no longer required in areas where the Catholic Church had managed to build trust with local officials over time.

3.16 Reports issued by the United States Commission on International Religious Freedom indicate that dozens of Catholic clergy, including three bishops, remain in detention, in home confinement, or disappeared in 2013. Overseas travel by prominent church members or leaders is largely viewed by authorities as out of bounds, owing to long-held fears about foreign funding or influence on communities in China. According to media reports, around half of 100 students who had planned to travel from China to South Korea to attend the Asian Youth Day event in August 2014 were prevented from attending.

3.17 As with members of Protestant churches in China, Catholics in China can experience officially-sanctioned harassment and discrimination when their activities are viewed by authorities to be politically sensitive. Incidence of societal discrimination and violence against Catholics in China is generally low.

Human Rights Activists and Lawyers who are Christian

3.18 Human rights activists and lawyers who identify themselves as belonging to house churches can be at particular risk of adverse attention by authorities because their activities are seen by the government to be politically sensitive. DFAT assesses this adverse attention is due to their human rights activism and association with “illegal” (unregistered) organisations, which would likely occur regardless of whether they were Christian or otherwise.

Different Treatment for Leaders and Worshippers

3.19 Leaders of registered churches tend to face more interference from authorities than ordinary worshippers. For example, senior church members can be required to seek approval from government authorities before travelling overseas whereas ordinary churchgoers may not. Leaders involved in activities seen to be “politically sensitive” by authorities (such as protests against land demolitions or human rights advocacy) are especially at risk of attracting adverse attention – but again, this is likely not just because they are leaders of a church but also because of their participation in other activities viewed as sensitive or “illegal” by the authorities.

Other Groups, including “cults”

3.20 The interpretation of what constitutes a cult can vary throughout China, with some local authorities listing behaviours such as “deifying leaders, deceiving people, and spreading superstitions and heretical beliefs” as grounds for labelling a group a “cult”. Practices deemed superstitious, cult-like, or beyond the vague legal definition of “normal,” can attract harassment, detention and imprisonment by authorities (for example, in December 2012, Chinese media reported more than 1,300 people across 16 provinces had been detained for propagating rumours of an apocalypse). A joint interpretation issued by the Supreme People’s Court and Supreme People’s Procuratorate in 1999 stated that punishments for cult crimes can be applied when one “resists group bans by relevant departments, resumes banned groups, establishes other sects, or continues [illegal] activities”. Individuals who organise or use “superstitious sects, secret societies or evil religious organisations” to undermine the state’s laws or administrative regulations can be sentenced from three to seven years in prison under Article 300 of the Criminal Law. Government crackdowns against cults occur with relative frequency in China.

3.21 Groups such as the Guanyin Method Sect (Guanyin Famen or the Way of the Goddess of Mercy), Zhong Gong (a qigong exercise discipline), and Falun Gong (see below) are banned by the Chinese government. The government also considers several Christian groups to be “evil cults,” including the

“Shouters,” Eastern Lightning, Society of Disciples (Mentu Hui), Full Scope Church, Spirit Sect, New Testament Church, Three Grades of Servants (or San Ban Pu Ren), Association of Disciples, Lord God Sect, Established King Church, Unification Church, Family of Love, and South China Church.

3.22 Both registered and unregistered orthodox Christian Churches tend to deride the doctrines of “cultish” organisations as heresy. However, at the same time, government crackdowns on “cults” often bring attention and scrutiny of Christian house churches by government officials, scholars, and ordinary people who can find it difficult to distinguish between the two.

Falun Gong

3.23 Falun Gong (also known as Falun Dafa) is a spiritual movement that blends aspects of Taoism, Buddhism, and qigong (a traditional Chinese exercise). Falun Gong practitioners say the movement has ancient origins, but it first appeared in its modern form in 1992, when group founder Li Hongzhi began teaching the exercises in Changchun, China. Falun Gong reportedly remains active throughout China, but most prominently in Shandong and north-eastern China.

3.24 Proving membership of Falun Gong can be difficult because practitioners identify with Falun Gong through a belief system and physical practice. Reading books on Falun Gong, practicing qigong and engaging in private practice at home are the most common ways for members to express their belief. When asked about the benefits of practicing Falun Gong, practitioners usually try to identify positive physical changes that have taken place within their own bodies. Because of the risks involved, it would be rare for someone to actively seek out Falun Gong or practice in public. Rather, Falun Gong practitioners tend to identify potential new members and slowly introduce them to the practices and beliefs of Falun Gong.

3.25 Credible sources have told DFAT that Falun Gong practitioners are generally able to practice privately in their homes relatively free from interference by authorities. However, Falun Gong members regularly face widespread official and societal discrimination if they become known to authorities, colleagues or neighbours. Generally speaking, the possession of banned materials (books, CDs, or information about Falun Gong) would likely attract a fine or short-term period of administrative detention. However, punishments can vary according to location, the profile of the individual and local political circumstances.

3.26 The CCP maintains a Leading Small Group for Preventing and Dealing with the Problem of Heretical Cults to eliminate the Falun Gong movement and to address “evil cults”. This group maintains an extrajudicial security apparatus known as the 6-10 Office (named after 10 June 1999 crackdown against Falun Gong), to eradicate Falun Gong activities. The 6-10 office has reportedly created specialised facilities known as “transformation through re-education centres” to force practitioners to relinquish their faith. Since the general abolition of re-education through labour centres was announced in late 2013, Falun Gong practitioners have reportedly been sent to black gaols, sentenced to other forms of administrative punishment, or have been released after receiving propaganda training. According to Duihua’s Political Prisoner Database (PPDB), the number of Falun Gong prisoners known or believed to be in custody has nearly halved since 2009 and approximately 2,369 cases were documented for 2013. The United States Commission on International Religious Freedom stated there were 486 known Falun Gong practitioners serving prison sentences as at the end of 2013. According to Freedom House, the Chinese government launched a new, three-year crackdown against Falun Gong practitioners in 2013.

3.27 Falun Gong practitioners who are sentenced to criminal punishment most commonly receive verdicts of three years’ imprisonment or less. Once in detention, Falun Gong practitioners are under pressure to denounce their faith in Falun Gong. Methods reportedly used against Falun Gong practitioners include sleep deprivation, enforced standing and kneeling for extended hours, nasal feeding (forced feeding through a tube inserted into the nostril), being forced to drink dirty or salty water, shackling and beatings. Reports of psychological treatment used against practitioners have also been documented in international human rights reports. Reports of psychiatric experimentation and organ harvesting being imposed on Falun Gong practitioners in detention could not be independently verified.

3.28 Leaders and regular followers tend to receive the same type of treatment in detention. Falun Gong practitioners who sign confessional statements early can possibly face better treatment in detention and can be permitted to return to their normal lives and jobs. Others who are persistent in defending their beliefs and who refuse to sign a statement can face worse treatment in detention. The lack of transparency into China’s prison and detention centres makes it difficult to verify these claims.

3.29 On release from detention, Falun Gong members can be placed under surveillance and can experience difficulties finding employment beyond low-skilled jobs (such as cleaning toilets or subways).

Discrimination of Falun Gong practitioners can extend to family members and can result in the loss of employment, pensions or social relationships. There have been cases where officials have targeted family members in order to pressure Falun Gong practitioners. Officials working within the government, members of the police force and workers within state-owned enterprises are commonly required to sign an acknowledgment clause stating they and their families are not Falun Gong members.

3.30 Falun Gong practitioners who are committed to their faith and who were already known to authorities or who had overtly engaged in behaviour considered to be politically sensitive would likely find it very difficult to obtain a passport to leave China. DFAT has been told of some immigration agents in China who coach people about what to say in order to convince others that they practiced Falun Gong. DFAT was also told that some lawyers and other "people who wanted to make money" (particularly those located in transit countries with some training in immigration matters) had been discovered teaching people about Falun Gong practices in order to aid their clients' claims for asylum. Falun Gong practitioners who denounce their faith in order to avoid punishment by Chinese authorities would likely be rejected from the Falun Gong community in China. However, this was not necessarily the case for those seeking to join the Falun Gong community overseas, where knowledge of their actions in China would not necessarily be well-known or easily disproved.

3.31 Human rights lawyers who defend Falun Gong practitioners can be denied access to their clients in detention or court and can be subjected to adverse treatment by authorities (such as harassment, loss of legal licenses, pressure on family members and occasionally, violence). Unlike other organisations identified as "cults" by the Chinese government, practitioners of Falun Gong are not considered victims but rather as people operating in deliberate opposition to the Chinese government's policies.

3.32 DFAT assesses that Falun Gong practitioners, and the lawyers who defend them, can be at risk of official discrimination and violence. The Chinese government's widespread propaganda campaign and security surveillance system have effectively discredited Falun Gong beliefs within mainstream Chinese society leading to potential societal discrimination in instances where Falun Gong's secretive activities have been exposed. Societal violence against Falun Gong practitioners is generally low.

The Shouters (Local Church)

3.33 The Shouters (also known as "Yellers", "Local Church", "Recovery Church", "Assembly Hall" and "Assemblies") are known for their habit of shouting while stomping their feet. Shouters are an offshoot of Watchman Nee's Little Flock in China and were led by Nee's student, Changshou Li who called himself, "Witness Lee". Li moved from China to Taiwan and then the United States, where he died in 1997. Li created the Shouters group in the US in 1962 which was then introduced to China in 1979. By 1983 the group had up to 200,000 followers across China. Witness Lee believed that the Shouters were the only true church; that teaching or preaching from the Bible was unnecessary; that the gift of tongues could be taught; and that the Shouters could save people by making them say "O Lord" three times.

3.34 The Shouters lost much of its popularity when it splintered into several groups including the Church of Almighty God (also known as Eastern Lightning – see below). Both it and the Society of Disciples reported having hundreds of thousands of followers in the 1980s or early 1990s. Credible sources were not able to comment on the extent to which Local Church members were still active in China.

Church of Almighty God/Eastern Lightning/Real God Church

3.35 The Chinese government banned the Church of Almighty God in November 1995. The organisation is an offshoot of the Shouters group. The group is also known by other names, including, "The Church of the Almighty God", "The Congregation", "Oriental Lightning", "Seven Spirit Sect", "Second Saviour Sect", "True Light Sect", "True Way Sect", and "New Power Lord's Church". It was founded in 1989 by Zhao Weishan, a physics teacher who grew up in Henan province but later fled to the United States. Adherents believe Jesus has returned to earth as a Chinese woman known as "lightning Deng" (Yang Xiangbin, the wife of Zhao Weishan). Members believe they are in a constant life-or-death struggle against the "Great Red Dragon" (a reference perhaps to the Chinese Communist Party) and that membership of the group would save them from impending apocalypse. Chinese media reports claim the group has more than one million followers divided into seven levels, with lower-level followers unconditionally obeying their superiors. Official sources say most members are under-educated rural women aged around 50 years.

3.36 State media reports detail abductions; extortion; beatings; murder; seduction; and aggressive proselytising as part of the group's practice of recruiting new members and punishing non-believers. For example, 35 members of an evangelical Christian group were reportedly kidnapped by members of the

Church of Almighty God in 2002. According to media reports of a man who reportedly joined the group "under cover", followers are first initiated by attending bible study classes and being taught orthodox Christian doctrine but later "abnormal teachings" are introduced. Members are encouraged to break away from family and are taught that non-believers are considered "impure" and "evil". Low-level believers are reportedly told that the church will give them and their family immortality. Large-scale arrests (more than 100) of Almighty God members have reportedly taken place in Qinghai, Guizhou, Ningxia, Henan and Liaoning provinces in recent years.

3.37 In May 2014, a Chinese woman was reportedly beaten to death by six members of Church of Almighty God at a McDonald's restaurant in Zhaoyuan, Shandong. According to state media reports, the six members (five adults and a twelve year old child) walked through the restaurant collecting phone numbers from diners. When the woman refused to give her number, she was reportedly beaten with chairs and a metal mop handle. The woman later died in hospital. Two of the six alleged perpetrators were executed on 2 February 2015. Three others were each sentenced to life, ten and seven years in prison for their role in the attack.

3.38 The McDonald's case has triggered an official crackdown on "cult" organisations. According to a news report published by the English version of the state-owned China Daily, the Ministry of Public Security said Chinese police would "severely attack" religious cults and punish those who participate in such movements. More than 1,500 cult members have reportedly been detained, and others have been arrested and sentenced to prison terms. For example, in July 2014, twenty-five cult members were given jail terms from three and a half years to eight years in the Ningxia Hui Autonomous Region. In Henan, five people were given prison sentences of three to three and a half years for editing and handing out leaflets about the church. Four women in Liaoning also received prison sentences of three and four years organising illegal activities and distributing publicity material for the group.

3.39 Credible sources have told DFAT that the government's efforts to crackdown on Christian "cult" organisations are primarily aimed at identifying and punishing the leaders. Disciples are generally seen as vulnerable victims who have been taken advantage of by "opportunistic people who are trying to make money". DFAT assesses that the government's current crackdown on "cultish" organisations, could result in members of unregistered church movements being mistreated by authorities who conflate unregistered church membership with membership of a cult. Stigma and suspicion of cult members can make it difficult for them to access lawyers who are willing to defend them; and lawyers who are willing to take on such cases are often themselves targets of adverse attention by authorities.

Jehovah's Witnesses/Mormons

3.40 Interest in some non-sanctioned religions (such as Mormonism, Jehovah's Witnesses, Eastern Orthodox Christianity and the Bahai faith) appears to be on the rise in China. However, exact numbers are unavailable and DFAT assesses that the population of believers would likely be small given the secretive nature of their practices and their illegal status in China. DFAT assesses that government suspicions about foreign interference and general distrust of organisations that are not state-sanctioned would make it very difficult for a Jehovah's Witness or Mormons to live and practice their faith in China. As mentioned above, the requirement for proselytisation amongst the broader community would be particularly difficult because such activities are prohibited under China's Regulations on Religious Affairs.

Buddhist Sects

3.41 Buddhism has long been acknowledged as the major religious faith in China. However, defining Buddhism is problematic because there is no clear distinction between Buddhism and so-called "folk religions" and Daoism. There are several million people who are influenced by popular Buddhism, Daoism and "folk religion". Although Buddhism is arguably more tolerated than Protestantism or Catholicism, on occasion, Buddhist monks and nuns have been targeted for performing rites which the local officials have regarded as superstitious. DFAT was not able to verify the extent to which members of other Buddhist sects (such as Yiguandao) practice their faith in China. Conditions for Tibetan Buddhists are discussed in more detail in DFAT's Country Report on China (March 2015).

4. Other Considerations

State Protection

4.1 DFAT assesses that because the majority of claims about discrimination and violence relate to state-sanctioned policies, state protection against abuses by police or other authorities would be inadequate. Further information of State Protection in China is discussed in DFAT's Country Report on China (March 2015).

Internal Relocation

4.2 There are many opportunities for internal relocation in China and movement of people is fundamental to China's push for continued economic growth and urbanisation. Freedom of internal movement is hindered by the hukou (household registration) system. DFAT assesses that unless a person is placed on a black list or has been identified as a person of significant interest by authorities at the local level (such as an outspoken and convicted Falun Gong practitioner, well-known human rights dissident or member of a so-called "cult" who is wanted by authorities on criminal charges), internal relocation would generally be possible. Further information is discussed in DFAT's Country Report on China (March 2015).



Australian Government
Department of Foreign Affairs and Trade



DFAT Country Report

People's Republic of China

3 March 2015

Contents

Contents	2
1. Purpose and Scope	3
2. Background Information	4
Recent History	4
Demography	4
Economic Overview	4
Political System	5
Security Situation	6
Human Rights Framework	7
3. Refugee Convention Claims	8
Race/Nationality	8
Religion	9
Political Opinion (Actual or Imputed)	10
Groups of Interest	11
4. Complementary Protection Claims	16
Arbitrary Deprivation of Life	16
Death Penalty	16
Torture	16
Cruel, Inhuman or Degrading Treatment or Punishment	17
5. Other Considerations	18
State Protection	18
Internal Relocation	19
Treatment of Returnees	20
Documentation	20

1. Purpose and Scope

- 1.1 This Country Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at the time of writing and is distinct from Australian Government policy with respect to the People's Republic of China.
- 1.2 Due to China's size, population, diversity and complexity, the report provides a general, rather than an exhaustive, country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.
- 1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that: Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.
- 1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source. The report also takes into account relevant and credible publicly available sources, including, but not limited to: The World Bank; The International Monetary Fund; The United States Bureau of Democracy, Human Rights and Labor; The United States Commission on International Religious Freedom; The Immigration and Refugee Board of Canada; Duihua; The United Nations Office of the High Commissioner for Refugees; The UN Office of the High Commissioner for Human Rights; The United Nations Development Programme; USAID; Human Rights Watch; Amnesty International; The Tibetan Centre for Human Rights and Development; International Campaign for Tibet; Radio Free Asia; CNN; BBC News Asia; Xinhua; Global Times; The New York Times; China Human Rights Defenders; The Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; The Committee to Protect Journalists; The Marriage Law of the People's Republic of China; The Population and Family Planning Law of the People's Republic of China; The Criminal Law of the People's Republic of China; The Law of the People's Republic of China on Resident Identity Cards; and the Chinese government's official web portal.
- 1.5 See also DFAT Thematic Report on Unregistered Religious Organisations and Other Groups (March 2015).

2. Background Information

Recent History

- 2.1 The People's Republic of China was proclaimed by Mao Zedong on 1 October 1949 following the Chinese Communist Party's (CCP's) victory against Chiang Kai-shek's Nationalist forces and their subsequent withdrawal to Taiwan.
- 2.2 Since 1979, China has undergone profound economic change following Deng Xiaoping's "reform and opening up" policy. China's economy has transformed from a poor, planned and primarily agricultural economy to become the second largest in the world. This has resulted in an unprecedented rise in living standards. The World Bank estimates 500 million Chinese have been lifted out of poverty since 1978.
- 2.3 Political change is evolving more slowly. Although Chinese citizens are able to exercise far greater personal choice in relation to employment, education, dress and travel, the CCP controls many forms of political expression and remains intolerant of organised opposition.

Demography

- 2.4 Mainland China has a population of 1.39 billion and a total land area of 9.6 million square kilometres. In 2013, the urban population accounted for 53.2 per cent of the total population. China has 90 cities with populations of more than one million people. China's largest city is the municipality of Shanghai (population 24 million in 2012). The municipality of Beijing (the capital) is the second largest (population 21 million in 2012).
- 2.5 Aside from the majority Han who account for approximately 92 per cent of the total population, the Chinese government officially recognises 55 other ethnic groups. Mandarin (Putonghua) is the national language prescribed by the state but there are currently 298 living languages in use. Mainland China consists of 22 provinces, five autonomous regions (the Inner Mongolia Autonomous Region, Xinjiang Uighur Autonomous Region, the Guangxi Zhuang Autonomous Region, the Ningxia Hui Autonomous Region and the Tibet Autonomous Region) and four municipalities (Beijing, Chongqing, Shanghai and Tianjin) that report directly to the central government.
- 2.6 China has achieved the Millennium Development Goals, however approximately 114 million people still live below the government's decreed annual poverty line of 2,300 RMB (approximately AUD 400). China is among the least equal 25 per cent of countries in the world, despite strong income growth amongst its poor.

Economic Overview

- 2.7 China is the world's second-largest economy (after the United States), the largest exporter of goods, second-largest importer of goods, the fifth-largest exporter of services and second-largest importer of services. China's economy achieved double-digit growth in the mid-2000s until the onset of the global financial crisis in 2008. Since then, economic growth has slowed as the government has focused on achieving more sustainable economic development. According to China's National Bureau of Statistics, China's gross domestic product (GDP) grew 7.4 per cent (year-on-year) in 2014.
- 2.8 China's gross national income per capita for 2013 (based on purchasing power parity) was \$11,850. The Asian Development Bank ranks China as an upper middle-income country. China's major cities have per-capita income levels equal to those of the poorest OECD member countries. Per capita incomes of urban households were nearly three times that of rural households in 2013. China's registered urban

unemployment rate (excluding migrants and private enterprises) was estimated to be 4.1 per cent in 2013.

- 2.9 China's 12th Five Year Plan (2011-15) set an annual growth target of 7 per cent in an effort to moderate the pace of growth. The Plan outlined measures to rebalance the economy away from resource-intensive, fixed-asset investment and export-driven growth towards greater domestic consumption and environmentally sustainable services-led growth. China's leaders elaborated on these goals during the Third Plenum meeting in November 2013 but emphasised the CCP's continued role as the core driver of the economic reform process.
- 2.10 China is the world's largest energy consumer, and accounts for half of the world's coal consumption. A key focus of economic reform measures is to improve the quality of the living environment. Air pollution continues to reach hazardous levels, particularly in the north-eastern provinces that are the location for heavy-polluting iron, steel and cement producing industries.
- 2.11 China's society is ageing rapidly owing to significant advances in the quality of and access to healthcare combined with decades of low fertility rates, due in part to family planning policies. China's demographic challenges, combined with high levels of income inequality, rapid urbanisation, challenges to environmental sustainability, as well as risks posed by a declining property market and significant levels of debt (particularly at the provincial level), pose challenges to future growth.

Health

- 2.12 China ranks 91 out of a total of 187 countries listed on the UNDP's 2014 Human Development Index. Average life expectancy at birth in China is 75.3 years but geographical variations, particularly between urban and rural areas, exist. The official retirement age is generally 60 years for men and 55 years for women.
- 2.13 China's fertility rate of 1.7 births per woman is below the replacement level of 2.1. Chinese society's traditional preference for boys combined with decades of China's family planning policy resulting in sex-selective abortions (despite government efforts to ban the practice) has contributed to a sex ratio of male to female births of 1.16.

Education

- 2.14 Despite a nine-year compulsory education policy, children in China attend school for 7.5 years on average, although the figure varies according to location. China's average literacy rate is 95 per cent.

Political System

- 2.15 China is a one-party state governed by the Chinese Communist Party. The Party's peak leadership body, the seven-member Politburo Standing Committee, is similar to a cabinet and is responsible in practice for making all key decisions on foreign and domestic policy. The head of the Party, General-Secretary Xi Jinping (concurrently President of the State and Chairman of the Central Military Commission) is a member of the Politburo Standing Committee. Standing Committee members are drawn from the subordinate 25-member Politburo, which in turn is drawn from the Party's central committee.
- 2.16 Policy decisions are enacted by China's government. The government is subordinate to the Party with the Party an integral element of the government structure. For example, top government officials at all administrative levels concurrently hold Party positions. These structures are replicated across the country's various administrative levels. The National People's Congress (NPC) is the highest State body, and is China's closest approximation to a parliament. The State Council is the most important administrative body of the central government. It oversees the implementation of policy decisions, as well as regulations and laws adopted by the NPC. The Premier (currently Li Keqiang) is head of the State Council and China's Head of Government. Premier Li is also a member of the Politburo Standing Committee.
- 2.17 Governments at the provincial level and below are responsible for the majority of public expenditure on health, education, unemployment insurance, social security and welfare. They have the power to enact their own regulations as a means of implementing laws adopted centrally. Below the provincial

level are prefectural-level administrative units, counties and county-level cities, and finally townships and towns.

- 2.18 The government has allowed “grass-roots elections” to take place every three to five years at the local (village) level in some provinces. This administrative level is outside the four-tier formal government system. According to China’s Election Law, any citizen can become a candidate as long as they are nominated by the Party or receive ten signatures supporting their candidacy. Candidates must be confirmed by Party-appointed local election committees, which publish final lists of candidates, set rules for campaigning and count and announce results. Candidates who have not been sanctioned are rarely successful.

Corruption

- 2.19 China ranks 100 out of 175 countries and territories measured on Transparency International’s 2014 Corruption Perceptions Index. On taking office, President Xi Jinping launched a nation-wide anti-corruption campaign. The campaign has resulted in the arrest of more than 60 officials of ministerial-level and above including former Politburo Standing Committee member Zhou Yongkang. This year, state-owned enterprises will also be a priority area for corruption investigations. Conviction rates for corruption cases are close to 100 per cent. Internal Party supervision is conducted by the Party’s Central Discipline Inspection Commission. The Party Central Committee’s Propaganda Department maintains media controls and, consequently, State media generally are not permitted to play a watchdog role. Authorities have detained some members of the public who have sought to publicise official corruption. Corruption will continue to be of interest for the purposes of this document.

“Guanxi”

- 2.20 “Guanxi” is the Chinese name given to a system that exists in many countries where progress in business or government relies heavily on patronage networks. Meaning literally “connection” in Mandarin, “guanxi” was historically expressed through the provision of gifts, meals and favours. Along with China’s rapid economic development, expensive gifts of branded cigarettes and alcohol or lavish banquets quickly advanced to gifts of large sums of money, property or title. The government has introduced a range of austerity measures to limit official hospitality in line with its anti-corruption campaign. Despite this, patronage networks and the notion of “building guanxi” remains important within Chinese culture, particularly in business and government, and can often be influential in a person’s ability to secure outcomes in their favour (such as access to senior officials, enrolment in better schools, universities, jobs or legal outcomes).

Security Situation

- 2.21 Security personnel and surveillance technology are ubiquitous throughout China. Their presence is often intensified around anniversaries considered politically sensitive or places of potential mass gatherings. Partly as a result, everyday street crime and violence in China’s major cities is generally low.
- 2.22 In 2013 the Chinese government announced an 8.7 per cent increase in its domestic security budget to 769.1 billion RMB (approximately AUD158 billion). In 2014 the figure for spending on domestic security was announced as 205 billion RMB but this figure included only central government spending and did not include funding from provincial and regional governments. China’s draft defence budget for 2014 estimated a rise by 12.2 per cent to 808.2 billion RMB (AUD165 billion); an estimated 2 per cent of total GDP; although actual spending was likely to be much higher.
- 2.23 China’s Ministry of Public Security has oversight of the 800,000-strong police force. The People’s Armed Police (a paramilitary force) has 1.5 million members. The People’s Liberation Army (PLA) reports to both the Party’s Central Military Commission and the State’s Central Military Commission (both of which are headed by President Xi Jinping). The PLA currently has 2.25 million members, almost all of whom are Party members. A new National Security Commission (NSC) led by President Xi Jinping was established in November 2013. The Commission is expected to strengthen coordination of both international and domestic security issues.

Human Rights Framework

- 2.24 China's Constitution provides for freedom of speech, the press, assembly, association and religious belief. Article 33 states that "all citizens of the People's Republic of China are equal before the law. The State respects and preserves human rights". In practice, however, China's Constitution is non-justiciable and these freedoms are significantly curtailed. China's one-party political system lacks effective safeguards to allow independent monitoring and investigation of human rights abuses by the state (such as an independent media, judiciary or National Human Rights Institution).
- 2.25 In May 2014, China issued its "White Paper on Progress in Human Rights in 2013", the 11th such report on human rights issued since 1991. The White Paper emphasised improvements in material standards of living over civil and political rights or ethnic and minority rights. China published its National Human Rights Action Plan (2012-2015) in June 2012.
- 2.26 China has ratified the following international human rights conventions: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. China has acceded to the International Convention on the Elimination of All Forms of Racial Discrimination. China has signed but not ratified the International Covenant on Civil and Political Rights.
- 2.27 China occasionally permits external examination of its human rights situation. Earlier UN visits have examined issues of education (2003); arbitrary detention (2004); torture (2005); and food (2010). In 2013, China accepted a visit from the Human Rights Council's working group on the issue of discrimination against women in law and in practice. China participated in its second Universal Periodic Review in October 2013. Although it agreed to allow visits by the Special Rapporteurs on Water and Health and Sanitation at the UPR, China is yet to schedule the visits.

3. Refugee Convention Claims

Race/Nationality

- 3.1 China's Constitution prohibits discrimination on the grounds of nationality and protects people's ability to both use and develop their own spoken and written languages as well as to preserve or reform their own folkways and customs.
- 3.2 At 92 per cent of the total Chinese population, the Han dominate the political, economic and social landscape in China. China's largest ethnic minorities include the Zhuang (who number approximately 16 million), followed by the Hui, Manchu and Uighurs who each number over 10 million. Tibetans and Mongols each number approximately 6 million. According to China's Constitution, the government upholds and develops a relationship of "equality, unity and mutual assistance" among all of China's nationalities.
- 3.3 China has 155 Autonomous areas (consisting of the five "regions" mentioned previously, as well as 30 "prefectures" and 120 "counties") distributed throughout its territory where people of one ethnic minority live in concentrated communities. These areas represent 44 of China's total 55 recognised ethnic minorities and account for 64 per cent of China's total territory. According to China's Constitution, autonomous regions have more legislative rights than provinces, including a certain degree of self-government (for example, senior government representatives can be drawn from the dominant ethnic group). But all autonomous areas are fundamentally considered inseparable parts of Chinese territory and are subject to central government policies. Official figures from 2011 indicate ethnic minorities represented approximately 14 per cent of delegates to the NPC and more than 15 per cent of NPC Standing Committee members.
- 3.4 In Tibet and Xinjiang (the only two autonomous regions where the ethnic minority represent the majority over the Han), the Chinese government has emphasised what it calls "leap frog development" (a government policy of enhanced economic growth, investment and development in order to improve livelihoods). Considerable investment by the government has improved material living standards. However, in some cases, rising numbers of migrants (mostly Han) have increased competition for economic opportunities, and altered traditional livelihoods and cultural practices. In some cases, these grievances have led to resentment and violence between Han and ethnic minority communities. The situation for Uighurs and Tibetans is compounded by broader religious, security and political issues and is discussed in greater detail below.

Ethnic Uighurs

- 3.5 Uighurs are a Turkic people native to Central Asia. Uighurs in China live mostly in the southern, poorer areas of the Xinjiang Uighur Autonomous Region (Xinjiang), as well as in Gansu, Qinghai, Tibet and Hunan. Uighurs account for around 45 per cent of the total population in Xinjiang and the Han Chinese account for around 40 per cent (an increase from the Han's estimated six per cent in 1949). In the capital Urumqi, 75 per cent of the population is ethnically Han. Uighurs are predominantly Sunni Muslims but also identify themselves according to a secularised cultural identity and in some cases, traditional Sufism. Average life expectancy in Xinjiang is slightly lower than the national average at 72.35 years.
- 3.6 The Chinese government has adopted a range of policies to preferentially benefit members of the Uighur community, including preferential access to education and employment and less restrictive limits on family size. However, these policies have been accompanied by increased restrictions on cultural and religious freedoms. According to Uighur groups and international human rights organisations such as Amnesty International, the Chinese government's policies of modernising Xinjiang's economy, maximising resource exploitation and encouraging Han migration have disproportionately benefitted the

Han and have undermined the Uighurs' religious and ethnic identity. Such groups claim these policies and the government's heavy security presence in Xinjiang have increased inter-ethnic tensions.

- 3.7 A number of violent incidents have occurred in Xinjiang in recent years, resulting in numerous Uighur and Han casualties. Riots in Urumqi on 5 July 2009 resulted in approximately 200 (mostly Han) deaths. More recently, terrorism incidents purportedly linked to Uighur separatists have occurred throughout Xinjiang as well as in Yunnan and Beijing. The government has consequently implemented a zero-tolerance campaign against separatists and terrorists and intensified the security presence across Xinjiang. The government has also carried out a series of high-profile prosecutions of persons with suspected linkages to violent incidents. In some cases the authorities have conducted group trials and mass sentencing hearings. The death penalty has been used in some cases purported to be directly linked to acts of terrorism. Some Uighurs have been given harsh sentences for their political views, including some well-known Uighur academics. Credible human rights organisation Duihua estimates there are several thousand Uighurs in prison for political crimes in China. Access to information about incidents of violence in Xinjiang, or related legal cases, is tightly controlled and difficult to verify.
- 3.8 Generally speaking, Hans and Uighurs living in Urumqi go about their daily lives in relative freedom, albeit mostly living and working in separate areas of the city. Middle-class Uighurs who speak Mandarin and who have been educated through the dominant Mandarin education system can integrate within Han society and lead normal lives in Urumqi, including having access to good jobs. However, DFAT assesses that such cases would be the exception rather than the norm. Uighurs with poor Mandarin skills may find it more difficult to find employment in Han-dominated companies. Some Uighurs report discrimination in other parts of the country, such as being denied accommodation at hotels or being subjected to regular security and police checks either out in the street or in their homes. It can be difficult for Uighurs to obtain passports or to leave Xinjiang to undertake domestic travel.

Ethnic Tibetans

- 3.9 There are over six million ethnic Tibetans in China, mostly residing throughout the Tibetan Autonomous Region (TAR) as well as ethnically Tibetan areas of Gansu, Yunnan, Qinghai and Sichuan. The Chinese government has invested significant financial resources into improving the economic living standards in the TAR in line with its "leapfrog development" policy. According to government statistics, 400 billion RMB (approximately AUD74 billion) has been invested since 1959. TAR officials have said that the region has a 15-year free compulsory education policy and residents could receive 75 to 95 per cent reimbursements for medical care. Officially, farmers and herders are exempt from paying agricultural taxes. The government has provided 90 per cent of farmers and herders with new government-built housing, although DFAT is aware of cases where Tibetans have been forced to give up their centrally-located land in exchange for government housing in city outskirts. Average life expectancy in the TAR is lower than the national average at 68.17 years, as are school attendance rates (which, according to UNDP, measured an average of 4.8 years in 2010).
- 3.10 Human rights organisations claim the benefits of development have been directed disproportionately towards Han migrants and have come at the cost of traditional Tibetan livelihoods, the environment, and religious freedom. Pro-Tibetan groups argue that these efforts have on occasion been forced on the population. Organisations such as Human Rights Watch have reported that efforts to maintain stability and encourage greater integration between ethnic Tibetans and the broader community have been accompanied by mass surveillance and propaganda campaigns.
- 3.11 On 14 March 2008, protests by Tibetan monks in Lhasa turned violent with numerous Han Chinese casualties. Chinese authorities detained a large number of Tibetans following the riots, some of whom received long prison sentences. According to Tibetan groups and media sources, there have been more than 130 self-immolations since March 2011 in protest against Chinese government policies in Tibet or in support of the Dalai Lama's return to Tibet. Tibetans associated with pro-independence or self-immolation protests account for more than a quarter of around 5,500 active cases on Duihua's 2013 Political Prisoner's Database. Tibetan groups have reported discrimination against and surveillance of Tibetans travelling in non-Tibetan areas of China.

Religion

- 3.12 Official statistics state there are around 100 million religious believers in China, including over 23 million Protestants, six million Catholics, and over 22 million Muslims. It is difficult to quantify the number of Daoists or Buddhists in China because of the mostly private nature of their faith. The Chinese

government claims there are about 5,500 religious groups in China, along with nearly one hundred religion-affiliated academic institutions and as many as 140,000 registered places of religious activity. Officially, there are 360,000 registered religious clergy. In reality, the number of religious believers is estimated to be much higher and rising, particularly among believers in unregistered religious organisations (see separate DFAT Thematic Report on Unregistered Religious Organisations and Other Groups).

Uighur Muslims

3.13 The Chinese government restricts devout expressions of the Islamic faith in some cases. In some cities and prefectures of Xinjiang, local authorities enforce bans against wearing full veils, growing beards, fasting by government officials or students during Ramadan or private religious education. Chinese law prevents people under the age of 18 from attending prayer at mosques. Authorities have increased surveillance of religious sites, including mosques, since recent attacks. Limits are put on the number of people doing the Haj. These measures have intensified existing tensions between the Uighur community and authorities. Uighurs can therefore be at risk of both official and societal discrimination and violence.

Tibetan Buddhists

3.14 The vast majority of ethnic Tibetans in China are Buddhist. According to China's 2013 White Paper on Human Rights, the state "respects the freedom of religious belief of all the people in Tibet, and ensures that they can practice their religions, conduct ceremonial activities, participate in major religious and folk festivals and engage in other normal activities of their own free will". Official statistics note there are currently 46,000 resident monks and nuns and 358 living Buddhas in Tibetan areas across China. The government encourages tourism to officially-sanctioned monasteries.

3.15 Tibetans who practice their religious faith within state-sanctioned boundaries are generally not at risk of official discrimination or violence but can be subject to restrictions nonetheless (such as the prohibition on displaying images of the Dalai Lama in some areas). Tibetans who engage in behaviour considered to be politically sensitive such as protests, self-immolations or support for such activities, including attending funerals of those who have self-immolated or gathering to pray in non-state-sanctioned monasteries can be more at risk of official discrimination and violence than those that do not. The government has detained monks and nuns suspected of supporting Tibetan separatism, or who actively support the exiled Buddhist spiritual leader, the Dalai Lama. Overt support for the Dalai Lama or the Tibetan government in exile is generally prohibited.

3.16 Owing to the respected historical influence of Buddhism in Chinese society and the relatively contained nature of Tibetan protests against government policies, DFAT assesses that, generally speaking, societal discrimination against Tibetan Buddhists on the basis of their religious belief is low, although suspicions about religious practice, when conflated with broader security and political concerns, can occur.

Political Opinion (Actual or Imputed)

3.17 Article 35 of China's Constitution states that citizens of the People's Republic of China enjoy freedom of speech, the press, assembly, association, procession and demonstration. China's White Paper on Progress in Human Rights states that "within the range allowed by the Constitution and other laws, the public can discuss political issues freely". Although article 41 allows citizens the right to criticise and make suggestions regarding any State organ or functionary... fabrication or distortion of facts for purposes of libel or false incrimination is prohibited".

3.18 In practice, however, the laws and regulations allowing the enforcement of these constitutional rights are not well developed. China's law requires all gatherings of people numbering more than 200 persons to obtain approval from public security authorities. The 1989 Law of Assemblies, Demonstrations and Processions means organisers of unapproved protests risk detention or prison sentences, often on public order charges.

3.19 The CCP has no tolerance for any form of dissent. There is some room for the expression of views on policy matters that don't involve questioning the legitimacy of the central authorities, for example, in relation to environmental concerns or, in limited circumstances, commentary on corrupt officials. There is no reliable guide for the tolerance of alternate political opinion, given the inconsistency of

enforcement across the country and the restrictions on the flow of information. Pre-emptive detention of activists and rights defenders is common around political anniversaries and other high-profile or “sensitive” events. Those publicly advocating greater human or civil rights, and calling for enforcement of the rights and protections enshrined in China’s Constitution have also been detained and charged under public order offenses. Provincial and local authorities have on occasion been harsh in their treatment of critics. Duihua’s Political Prisoners’ Database which records information about political and religious prisoners incarcerated in China since 1980 contained more than 28,000 entries (5,500 of which were considered active) at the end of 2013.

Groups of Interest

Protesters/petitioners

3.20 It is estimated there are between 150,000 and 180,000 popular protests every year; the vast majority of which concern: land disputes; housing problems; industrial, environmental, and labour matters; government corruption; taxation; and other economic and social grievances. Others are provoked by accidents or related to personal petitions, administrative litigation, and other legal processes. According to Duihua, detentions took place in 25 per cent of mass protests documented in 2013.

3.21 Despite recent reforms leading to improved legal protections for property ownership and compensation for expropriated land, protests and petitions related to land seizures by officials and the conduct of developers remain common in China. According to the State Bureau of Letters and Calls (the national department responsible for local petitioning offices), an estimated four million disputes resulting from expropriated land and property demolitions occur every year. DFAT is aware of reports describing aggressive, and sometimes violent, action by private security contractors hired by property developers to manage protesters.

3.22 China’s Constitution and State Compensation Law enables citizens to seek compensation from the state but the public’s confidence in the judicial system and ability to afford lawsuits is generally low. The Chinese government encourages Chinese citizens to submit complaints through government-controlled websites and local petitioning offices. Although extra-legal “black gaols” (informal, ad hoc, detention facilities set up by local authorities) have long been used to contain the rising number of petitioners, the Chinese government denied their existence during its most recent Universal Periodic Review. The government has announced a number of reform measures designed to improve transparency and responsiveness of the petition system. In November 2013, authorities announced plans to abolish a long-held system of ranking provincial authorities according to their ability to limit local petitioners and maintain social stability.

Non-governmental organisations (civil society organisations)

3.23 An increasing number of civil society organisations are emerging in China as a result of its economic liberalisation and the gradual shift away from the provision of state-led social services. Official statistics report that by the end of 2012, there were approximately 500,000 grassroots non-governmental organisations registered in China. In order to register legally, civil society organisations must be sponsored by a government agency, have a registered office, and hold a minimum amount of funds.

3.24 Organisations which operate in areas considered sensitive by the government (such as human rights advocacy, HIV/AIDS issues (see below) or migrant worker issues) can face difficulties obtaining a government sponsor or otherwise prefer to remain independent from government. In December 2013, the Ministry of Civil Affairs (the government body responsible for administering civil society organisations) announced plans to abolish the requirement for certain types of civil society organisations to obtain a government sponsor. Organisations considered to be “sensitive” by the government are unlikely to benefit from these proposed reforms.

3.25 DFAT assesses that employees of registered civil society organisations are able to operate free from official and societal discrimination and violence as long as they work within government restrictions and refrain from engaging in activities considered to be politically sensitive.

3.26 People engaged in unregistered civil society organisations that are not considered by the government to be sensitive are, generally speaking, also unlikely to face official discrimination or

violence, although it may be difficult for them to obtain legitimate employment records, work references or wages.

- 3.27 People associated with, or employed by, unregistered civil society organisations which are also considered to be sensitive are at risk of adverse treatment by authorities, landlords and neighbours. Reports of official and societal discrimination in the form of enforced evictions, power cuts, harassment and extortion are relatively frequent amongst these types of civil society organisations. Reports of societal violence, however, are generally low.

Human Rights Defenders (including Lawyers)

- 3.28 Lawyers in China are largely viewed by the government as civil servants rather than independent practitioners of the law. As a result, those that pursue cases considered by the government to be politically sensitive (such as those concerning Uighurs, Tibetans, Falun Gong practitioners, or those engaged in activities perceived to be “anti-government” in nature) risk adverse treatment by authorities, including discrimination, harassment, detention, and violence.
- 3.29 According to the United States Commission on International Religious Freedom, since 2011 more than 100 human rights defenders, many of who often work on political or religious freedom cases, were forcibly disappeared, tortured, detained, stripped of legal licenses, or sentenced to prison terms. DFAT assesses that such adverse treatment of human rights defenders has increased in recent years and that it is becoming more difficult for human rights lawyers to practice freely in China. As a result, human rights lawyers and other rights defenders are at risk of official discrimination and violence in China. However, due to the possibility of official reprisals, many human rights lawyers maintain a low profile and therefore societal awareness of their work, and any associated discrimination, is low.

Independent Media

- 3.30 Despite constitutional protections for freedom of speech, traditional print and broadcast media remain centralised and controlled by the CCP. According to the Committee to Protect Journalists, at least 44 journalists and online writers were in jail in China as of December 2014. China ranks as 175th out of a total 180 countries on the 2014 Press Freedom Index compiled by Reporters Without Borders.
- 3.31 By the end of 2013, Chinese internet users had reached 618 million and social networking website users had reached 278 million. The Freedom House “Freedom on the Net” 2014 report said China was the third most restrictive country in the world in terms of internet access. Ever since China installed “the Great Firewall” (the colloquial term for the government’s internet censorship and surveillance policy) in 2003, authorities have filtered select foreign websites including Facebook, Twitter, Google, Bloomberg, Google’s Gmail service and the New York Times.
- 3.32 While the rise of the internet has created a non-traditional space for the expression of political opinion in China, authorities have used increasingly sophisticated methods to limit the use of the internet for expressions of dissent. Media reports in 2013 suggested the Chinese government employed two million people to police the internet. News articles and social media posts that are considered to be politically sensitive by the government are regularly censored. The government has also introduced the netizens’ “quarter club”, who are paid a small amount each time they post a comment that is positive towards the government, as well as each time they report a negative comment to the authorities.
- 3.33 Although foreign social media applications are generally blocked in China, there are Chinese equivalents such as WeChat (China’s largest messaging service with 370 million users) and Weibo (China’s largest micro-blogging platform with 281 million users). These applications and all internet providers are required to provide authorities with “backdoors” to monitor exchanges between users. In addition, as of 2013, all internet users of micro-blogging sites are no longer able to post using pseudonyms; as the law requires users to register using their own names and telephone numbers. Similarly, individuals who wish to subscribe to phone and internet services must register using their real names and provide a copy of their National Identity Card (see Documentation below). The procuratorate has, at times, provided copies of censored Weibo posts and WeChat conversations to courtrooms as evidence of public order and subversion offences.
- 3.34 On 9 September 2013, judicial authorities issued a judgement that would allow an author of a libellous internet post to be subject to up to three years in prison if their post was reposted more than 500 times, read more than 5,000 times, led to mass protests, instigated ethnic or religious clashes, damaged the country’s image or caused “a bad international effect”. The publication of these guidelines

coincided with a wide-spread crackdown against online bloggers, journalists and other social media users.

- 3.35 DFAT assesses that journalists working for domestic media operate in China with a high degree of self-censorship and political awareness.

Women

- 3.36 Article 48 of the Chinese constitution states that women “enjoy equal rights with men in all spheres of life”. The Law on the Protection of Women’s Rights and Interests provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. Chinese women are eligible for 98 days of paid maternity leave.
- 3.37 Despite these measures, discrimination in education and work, sexual harassment, unfair dismissal, demotion, and wage discrepancies remain significant problems. Only 63.8 per cent of women over 15 years of age participated in the labour force compared to 78.1 per cent of men in 2012. On average, women reportedly earn 66 per cent that of men. Women remain underrepresented in senior CCP and government positions, holding only 23.4 per cent of the total number of seats in the NPC in 2013 and two of the 25 seats in the current Politburo.
- 3.38 The suicide rate for women is generally three times higher than for men. Rape is illegal and penalties range from three years in prison to a death sentence with a two-year reprieve and forced labour. The law does not currently address spousal rape. Domestic violence affects one quarter of women in China and is involved in nearly 10 per cent of intentional homicide cases. According to data released in October 2013 by a Beijing court, Chinese courts recognise less than 20 per cent of domestic violence claims brought before them. Refusal to accept cases of domestic violence brought before the courts is generally based on difficulties in collecting and verifying evidence. Statistics from provinces such as Guangdong and Shandong indicate even lower rates, ranging from two to 15 per cent. A draft anti-domestic violence law is being considered by the National People’s Congress.

Sexual Orientation and Gender Identity

- 3.39 China’s laws do not explicitly criminalise private consensual same-sex activities between adults. However, the Chinese government does not recognise de facto/same-sex partnerships and China’s Marriage Law only recognises marriage between a man and a woman. Homosexuality and bisexuality were removed from the Ministry of Health’s list of mental illnesses in 2001. Sexual orientation and gender identity that include lesbian, bisexual or transgender people are not explicitly dealt with in China’s existing anti-discrimination regulations. National laws allow transgender people to change their gender on ID cards and household registration if they have undergone full sex-reassignment surgery. Gender changes on other official documents, such as educational certificates, is not permitted. Censorship laws explicitly ban same-sex content in any form in movies and television. Workplace discrimination based on sexual orientation and gender identity is common and is not prohibited by any law or national regulation.
- 3.40 As with other civil society organisations that work on issues perceived by the government to be sensitive, LGBTI civil society organisations can experience difficulties registering legally, receiving funding and arranging public advocacy activities. Public opinion regarding homosexuality is gradually becoming more tolerant (particularly in China’s larger cities and regional urban hubs), but still remains predominantly negative. DFAT assesses that societal discrimination against LGBTI people exists but varies in frequency and severity depending on the location. Generally speaking, people in larger, wealthier cities in China - such as Beijing, Shanghai and Guangzhou - tolerate LGBTI people, and larger cities are starting to have LGBTI-friendly media and clubs. Public displays of affection between couples are generally discouraged, as they generally are for heterosexual couples. Smaller, more rural communities can be less accepting of LGBTI people owing to traditionally conservative views and a lack of education, although DFAT notes that data regarding the attitudes of people in China’s rural and western regions towards LGBTI issues is lacking. Some members of the LGBTI community have expressed concern that a rise in Christianity in China is leading to a rise in negative perceptions of homosexuality.
- 3.41 DFAT assesses that societal violence against LGBTI people is generally low, although lesbian and bisexual women are at particular risk of violence by family members and spouses. According to a 2009 survey of 900 lesbian and bisexual women about family violence, 48.2 per cent reported violence and abuse from parents and relatives, including involuntary committal to psychiatric wards. There have been

reports of family members forcing minors to undertake intense conversion therapy (although advertising and/or providing conversion therapy services is now illegal). LGBTI individuals can be at risk of domestic violence by family members who do not accept their gender identity or sexuality.

People living with HIV/AIDS

- 3.42 Figures issued by the Ministry of Health in conjunction with UNAIDS and the World Health Organisation in 2011 estimated there were 780,000 people living with HIV in China. At the end of 2012, new infections arising from homosexual transmission had risen to 29.4 per cent, overtaking injected drug use as the main source of new infections. The Chinese government has issued regulations on the Prevention and Treatment of HIV/AIDS that state “no organisation or individual shall discriminate against HIV/AIDS infectors or patients or their families, and that HIV/AIDS patients enjoy the rights to employment, medical care and others”.
- 3.43 Despite these measures, a lack of understanding and public anxiety associated with HIV/AIDS issues has led to widespread stigma and discrimination in society, as well as in the health care and education sectors. People living with HIV are prevented from working in the civil service and some businesses have adopted this model by introducing HIV testing for employees and dismissal for those who test positive. Women with HIV are at particular risk of discrimination, particularly in rural areas where there is a widespread lack of education about transmission through blood transfusions.
- 3.44 DFAT assesses that people living with HIV/AIDS are at risk of official and societal discrimination in China. DFAT has no information about incidents of violence against persons living with HIV/AIDS.

People affected by Family Planning Policies

- 3.45 Nation-wide family planning policies have been implemented in China since the late 1970s. China's Population and Family Planning Law came into force on 1 September 2002. The State encourages late marriage and childbearing and generally promotes one child per couple, although exceptions to the "one child" policy have been permitted in situations where: both spouses are only children; the first child has a disability; both spouses are members of ethnic minorities; or, for rural residents, the first born child is a girl. In November 2013, the Chinese government announced an adjustment to the family planning policy to allow couples to have a second child if either parent is an only child. At the time of writing, Hainan, Shandong, Heilongjiang, Fujian, Jilin, Jiangsu, Guangdong, Hubei, Gansu, Sichuan, Shanghai, Beijing, Tianjin, Anhui and Zhejiang had amended their regulations to reflect the change.
- 3.46 In March 2013 the Population and Family Planning Commission was absorbed by the Ministry of Health. The combined National Health and Family Planning Commission is the body now responsible for overseeing the policy. Lower level governments right down to neighbourhood and village committees are responsible for the day-to-day implementation of the policy. Government departments, state media and schools are also all required by law to advocate family planning policies. As a result, interpretation and implementation of the policy varies enormously across China.
- 3.47 Compliance with family planning regulations is largely achieved in response to incentives or punishments. Social compensation fees (also referred to as “social maintenance fees”) are the most common disincentive used to ensure compliance with the policy. Fees are to be calculated according to “last year's local disposable annual income per capita” in urban places, and “the net annual income per capita” in rural places. If the parents' actual income is higher than the average income, the actual income may be used as the basis for calculation. Each parent of an unapproved child is required to pay a social compensation fee. In some cases, this can amount to up to ten times a person's annual disposable income in social compensation fees. In some provinces or counties, authorities have imposed fines on entire work units in addition to the individuals concerned.
- 3.48 Revenues from fees are directed to county-level governments. The law does not set out a fee schedule that applies to all localities. Instead, provinces are empowered to formulate their own rules on specific fines based on the basic social compensation fee measure outlined above. Local authorities can decide whether to impose a more lenient fine based on whether or not the family has been compliant with the policy. Compliance or cooperation could mean reporting the birth of an out-of-plan child within a short timeframe. Uncooperative behaviour could mean hiding children or sending them away at the time of inspection by family planning authorities. Those that fail to pay the required fee can be subject to additional surcharges or have pressure placed on them by employers or the family planning bureau.

3.49 Local authorities occasionally launch campaigns to crack down on or prevent non-compliance with family planning policies. DFAT is aware of media reports indicating that coercive practices (such as forced abortions, sterilisations or invasive medical inspections) can be employed by authorities in order to force compliance. There is no reliable data on the frequency of coerced or forced abortions or sterilisations. Recent years have seen some high-profile media reports of late-term forced abortions, but observers believe such instances are becoming less frequent. DFAT is aware of reports that couples in violation of the policy, or their family members, have been beaten or detained, or have had their belongings, or those of their family, confiscated.

3.50 DFAT assesses that the inconsistent and non-transparent application of fees leaves open the possibility of individual or institutionalised corruption. Women are disproportionately affected by family planning policies because of regular medical inspections and pressure to use contraceptives. Pressure for government employees to both practise and promote family planning policies is high. Public opposition to family planning policies can be viewed as provocative by Chinese authorities.

4. Complementary Protection Claims

Arbitrary Deprivation of Life

- 4.1 Article 37 of China's Constitution states that freedom of the person of citizens of the People's Republic of China is inviolable. Some rights groups have claimed that police in western China have used lethal force to disperse unarmed groups of Uighurs who are protesting against religious restrictions. DFAT has been unable to independently verify these claims.
- 4.2 There are media and NGO reports of deaths in custody, both in detention facilities and black gaols, including for denial of access to proper medical care. DFAT assesses some of these claims as credible.

Death Penalty

- 4.3 China retains the use of the death penalty for 55 crimes, including a number of economic and non-violent crimes. Capital crimes include: "endangering public security" (such as arson, hijacking or the selling or producing of fake medicines); "smuggling" (including drugs, weapons or nuclear material); "disrupting the order of financial administration" (including counterfeiting currencies); and "infringing upon citizens' right of the person and democratic rights" (including homicide, rape, and trafficking). According to Article 347 of the PRC Criminal Procedure Law, individuals found guilty of trafficking narcotics in quantities of 50 grams or above shall be punished with 15 years' imprisonment, life imprisonment, or death. Double jeopardy laws apply in China and are outlined in Articles 8 to 12 of the Chinese Criminal Law. Pregnant women and people who are aged under 18 or over 75 years at the time the crime is committed are exempt from the death penalty. All death sentences are subject to the approval of the Supreme People's Court. Lethal injection and shooting have been employed as execution methods.
- 4.4 Courts can decide between a death sentence (without reprieve) and a death sentence with a two-year suspension of execution. According to China's Law, this latter punishment can be commuted to life imprisonment at the end of the two-year suspension period if no other intentional crimes have been committed during the period of suspension. If a person demonstrates "meritorious service" during their suspension period, they may be granted a reduction of sentence to 15 to 20 years' imprisonment.
- 4.5 China confirmed in its second Universal Periodic Review Report in 2013 that it would continue to reduce, although not abolish, the use of the death penalty. Although the number of executions remains a state secret, Duihua estimates approximately 2,400 people were executed in 2013.

Torture

- 4.6 China ratified the Convention Against Torture in 1988. Chinese law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases, took effect on 1 January 2013.
- 4.7 While some time ago, the UN Special Rapporteur on Torture, Inhuman and Degrading Treatment found in 2005 that "reports of torture remained widespread in China". It is difficult to verify the extent to which high-profile legal action against police found to have used torture to secure confessions has led to a decrease in the practice. According to victims' complaints of alleged torture received by the UN between 2000 and 2005, Falun Gong practitioners represented the majority of cases. Other complaints were received from Uighurs, sex workers, Tibetans, human rights defenders/activists, political dissidents and

other groups (including members of religious groups and those infected with HIV/AIDS). The Chinese government has said it recognises the need to address the issue of police brutality and has announced efforts to stop the practice where it exists. China has recently announced plans to abolish the “quota” system tied to promotions for local law enforcement. This was touted as an attempt to avoid police using torture to achieve increased efficiency in the justice system.

Cruel, Inhuman or Degrading Treatment or Punishment

Arbitrary Arrest and Detention

- 4.8 The Chinese government announced plans to abolish the controversial “re-education through labour” policy in November 2013. Public security authorities continue to use other forms of administrative detention to suppress political and religious dissidents, sex workers, drug users and petitioners. Individuals facing this type of detention do not have the right to legal counsel or due process.
- 4.9 Political prisoners are often subjected to deprivation of political rights (which legally allows China to deprive a criminal of the right to freedom of speech, assembly, association, procession, demonstration, vote and holding a position in a state organ) after completing a prison term. This can involve a prisoner, on release, being placed under house arrest for several years or even being relocated to a black gaol. Former prisoners and individuals serving deprivation of political rights sentences can face difficulties finding employment and places of residence, travelling freely, and accessing social services. Prisoners and their families have reported harassment or threats, including police surveillance, telephone wiretaps, property and body searches.
- 4.10 China’s revised Criminal Procedure Law allows suspects accused of ‘endangering state security’, major bribery or terrorism to be detained in unspecified locations for up to six months without notice to family members.

5. Other Considerations

State Protection

- 5.1 China's Constitution (Article 5) states that "no laws or administrative or local regulations may contravene the Constitution. All State organs, the armed forces, all political parties and public organisations and all enterprises and institutions must abide by the Constitution and other laws. All acts in violation of the Constitution or other laws must be investigated. No organisation or individual is privileged to be beyond the Constitution or other laws".
- 5.2 In practice, the basic rights enshrined in China's Constitution are not translated effectively into enforceable legislation. The absence of the meaningful separation of power between the executive and judiciary also limits the ability of judicial authorities to act with independence.

Police Powers

- 5.3 Chinese police have broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charge. Police detention beyond 37 days requires prosecutorial approval of a formal arrest and family members should be notified within 24 hours of detention. However, the law is flexible in that it permits officials not to provide notification if doing so would "hinder the investigation" of a case. During periods and anniversaries considered politically sensitive by Chinese authorities, activists and human rights defenders have been detained without charge for the 37 day period.
- 5.4 Residential surveillance at a designated place away from a person's home is permitted in law for up to six months, if the suspected crime relates to endangering state security, terrorism, or serious bribery and when it is believed that surveillance at the suspect's residence would "impede" the investigation. Authorities are required to notify relatives of individuals placed under formal arrest or residential surveillance in a designated abode within 24 hours, unless notification is impossible. Authorities are not required to specify the reason or location for the detention. Authorities can also prevent defence lawyers from meeting with suspects in these categories of cases. Under the revised criminal procedure law, and in cases involving state security or terrorism, police are authorised to detain a suspect after arrest for up to an additional seven months while the case is investigated. Following investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. The law stipulates that detainees be allowed to meet with defence counsel before criminal charges are filed but in cases considered politically sensitive, this rarely happens in practice. If charges are filed, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings.

Police Capabilities

- 5.5 The Ministry of Public Security coordinates the country's civilian police force, which is organised into specialised police agencies and local, county, and provincial jurisdictions. Generally speaking, China has a responsive and well-resourced police force. Police undertake four-year training programs that include courses in procedural law, public order and extensive physical training. Performance is statistics-driven and a national ranking system provides incentives for compliance. Local-level police are generally entitled to receive housing and food allowances as part of their monthly salaries, which are calculated according to local conditions rather than a national standard.
- 5.6 Maintaining public order and social stability are the key priorities for the police force in China. Regular police do not generally carry firearms but can do so in areas of heightened security (such as in Xinjiang). Reflecting the power held by the Ministry of Public Security, procuratorate oversight of the police is generally limited.

5.7 Chinese citizens have the right to lodge complaints against the police in their city of residence through a telephone hotline, online complaints website, in person, or in writing to the Complaints Office housed within the Public Security Bureau. Petitioners (including those who lodge complaints against police) can be targeted by authorities and placed in short-term arbitrary detention (for more information, see 3.22).

Judiciary

5.8 The government has announced reforms to improve accountability and limit corruption within the judiciary. For example, the Supreme People's Court is developing methods to broadcast trials on television and on the internet. Amendments to China's Criminal Procedure Law which took effect in January 2013 aimed to improve conditions for general criminal proceedings, including the exclusion of evidence obtained through torture, greater access to lawyers, and cross-examination of witnesses. The revised law requires the prompt delivery of suspects to detention facilities following arrest, the requirement that interrogations be performed in the detention facility, and that audio and video recordings of the interrogation process take place. The revised law also requires investigation of cases of extortion of confessions under torture by judicial officials. DFAT has been told that the revised criminal procedure law has improved the ability of criminal defence lawyers to meet with clients (but only in cases that are not considered sensitive). As noted, the absence of any separation of powers at any level creates structural vulnerabilities within the judicial system that could be exploited in cases that are considered politically sensitive or involve vested economic or political interests. Duihua estimates that China convicted over 99 per cent of criminal defendants in 2013.

Detention and Prison

5.9 Chinese law provides for prison conditions to be ventilated, clean and warm with natural light. Prisons are required to provide adequate medical, living, and sanitary facilities. In practice, the lack of transparency into China's legal system makes it difficult to comment on prison conditions. In general, conditions vary depending on the location, resources available, training of prison or detention guards, and perceived level of political sensitivity and profile of the individual concerned.

5.10 Detainees can be held in overcrowded conditions, be required to sleep on the floor and be denied regular exercise. Generally speaking, meals are regularly served but nutritional quality is poor and quantities are small. Many detainees rely on supplemental food, medicines and warm clothing provided by relatives, although these privileges are sometimes denied as a form of punishment, particularly for political dissidents. Adequate medical care for prisoners is not always assured. Conditions in administrative and pre-trial detention facilities are often worse than those in prison.

Internal Relocation

5.11 There are many opportunities for internal relocation in China and since the economic reforms of the late 1970s and 1980s, many tens of millions of Chinese people have moved, particularly from rural to urban areas. Such movement is an important element of China's push for continued economic growth and urbanisation. Freedom of internal movement is hindered by the hukou (household registration) system.

Hukou (household registration) system

5.12 The hukou system ties access to government services, such as education above a certain level and health, to a citizen's place of birth, or even their parents' place of birth, rather than their place of residence. Only 35 per cent of urban Chinese are estimated to have an urban hukou. Chinese migrant workers (officially 174 million, but in practice likely to be many more) who move away from rural areas for better employment opportunities, are therefore unable to access key services and in some cases face institutionalised discrimination. Some estimates claim 60 to 100 million children have been left in their grandparents' care while their parents work in cities. On 30 July 2014, China's State Council announced plans to replace the existing urban and rural hukou system with a pilot residence permit system for cities with populations below five million people.

5.13 Linguistic and cultural barriers are not an inhibiting factor for ethnically Han Chinese to move away from their place of hukou registration. However, this may not be the case for members of ethnic

minorities. Those involved in activities considered politically sensitive are unlikely to face better or worse treatment elsewhere in China.

Treatment of Returnees

- 5.14 China is a signatory to the 1951 Refugee Convention but does not have a refugee status determination procedure. The UNHCR, rather than the Chinese government, has the authority to grant refugee status within China. As at January 2014, China had 301,047 (non-Chinese) refugees and 380 (non-Chinese) asylum seekers residing in China. The UNHCR was not able to provide statistics on returned refugees.
- 5.15 According to the United States Bureau of Democracy, Human Rights and Labor, the Chinese government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans in 2013. The Chinese government has repatriated North Korean defectors viewing them as economic migrants.

Exit and Entry Procedures

- 5.16 Chinese law provides for foreign travel, emigration, and repatriation. A number of agencies within the Ministry of Public Security hold responsibility for monitoring entry and exit procedures at Chinese airports, including the Public Security Bureau, the Entry and Exit Authority, and the Frontiers Inspection Bureau. China's major airports have a centralised system with name matching alert capabilities. Security monitoring capabilities at major airports are comprehensive.

Documentation

Birth and Death Certificates

- 5.17 Birth registration rates are generally low in China, particularly in rural areas and for marginalised children. An official birth certificate system was introduced nation-wide in 1996 based on the Law of the People's Republic of China on Maternal and Infant Health Care. Medical birth certificates can be issued by the Ministry of Public Health through the hospital or facility where the child is born. Births must be registered in the police station according to the parents' hukou. Credible sources have told DFAT that family planning records are the most important documents required for the issuing of hukou status which are assessed by the relevant branch of the Ministry of Public Security. Procedures for registering deaths in China vary by area and location of death. Death certificates are usually issued by the Ministry of Health and are required to cancel hukou registration and to bury the deceased.

National Identity Cards

- 5.18 Citizens over the age of 16 are required to apply for identification cards while those under 16 years can voluntarily apply with the assistance of a guardian. ID cards are managed by the Public Security Bureau and are issued according to the 2003 Law on Resident Identity Cards. Cards are valid for five years (for those under 16), ten years for those aged between 16 and 25 years, twenty years for individuals between 26 and 45 years and permanently for individuals aged 46 years or older.
- 5.19 Use of China's latest (second generation) resident identity cards (RICs) became mandatory in 2013. RICs include the cardholder's name, sex (male or female), ethnicity, date of birth, residential address, a unique 18-digit ID number and coloured photograph. Embedded digital microchips in each card can also contain the same identifying information as well as work history, educational background, religion, ethnicity, police record, medical insurance status, landlord's phone number, and reproductive history. Cards issued in ethnic minority areas contain corresponding text in the minority language. Han Chinese in ethnic minority autonomous regions are only permitted to have text listed in Mandarin.
- 5.20 Applicants are required to complete a Registration Form of Application for Resident Identity Card and present their resident household registration book for examination by public security authorities. Costs for the issuance of new or renewed cards vary according to location and the circumstances of the applicant. For example, the law allows for exemption from payment for urban residents who receive subsistence allowances and rural residents who live in "specially straitened" circumstances. Disciplinary

warnings, fines (ranging from 200 to 1,000 RMB – approximately AUD40 -200) and detention up to ten days, can apply if a person is found to have breached the Law on Resident Identity Cards. Forgery of cards is considered a criminal act.

5.21 The technology used for second-generation cards is reportedly difficult to counterfeit. As of 2013, Beijing has introduced trials to include fingerprints on the cards making it more difficult to forge. Card readers have been installed in such places as banks, customs, train stations and airports. ID cards are required for residential permits (hukou), employment, opening bank accounts, obtaining passports and driver licenses, applications for tertiary study and technical colleges, travel by plane or train, as well as marriages and legal cases. Internet cafes and some shops also require proof of identity.

Passports

5.22 According to the Passport Law of the People's Republic of China (2006), ordinary passport applicants are required to apply in person to the Entry-Exit Control Department of the Ministry of Public Security or their designated bureaus where hukou is registered. Applicants must provide their resident identification card, resident household registration book, recent photos and other materials related to the reasons for their application. Approved applications are generally issued within 15 to 30 days. If a passport application is refused, reasons for the refusal must be provided in writing and the applicant is to be informed of their right to apply for administrative reconsideration or to file an administrative lawsuit. Costs of passport processing vary according to location but are generally considered affordable.

5.23 The items to be registered in an ordinary passport consist of the holder's name, sex, date and place of birth, the date of issue, term of validity and place of issue of the passport and the issuing authority. The term of validity of an ordinary passport varies according to age of the passport holder. Passports are both readable visually and by computer and contain anti-forgery properties. Those who sell or use forged passports can be subject to criminal charges.

5.24 Authorities can refuse to issue passports for people who are believed "will undermine national security or cause major losses to the interests of the State". According to the US Congressional-Executive Commission on China, in 2013 an estimated 14 million people were affected by restrictions on foreign travel and acquiring passports, many of them religious and political dissidents, including Uighurs and Tibetans. The government does not publish figures on those who have been denied passports.

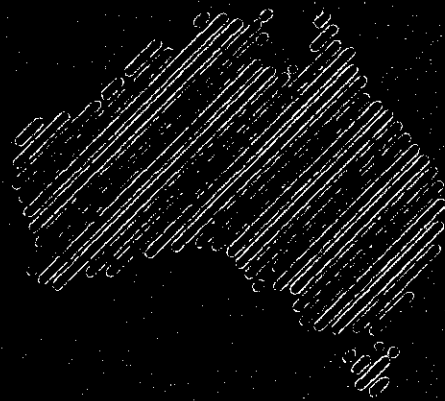
5.25 Uighur and Tibetan applicants are required to obtain approvals from provincial authorities and the applicant's hometown public security bureau; a process which can take longer than the standard 15 to 30 days. Similarly, Uighur and Tibetan students require approval by university administrators. DFAT is aware of cases where human rights activists, lawyers, Uighurs and Tibetans have had their passports confiscated as punishment for their political activities or in an effort to limit the risk of such individuals causing potential embarrassment to the Chinese government when overseas.

Prevalence of Fraud

5.26 DFAT assesses it would be difficult to depart China on a fraudulent passport owing to the sophisticated technology used and the degree to which surveillance by immigration and security agents occurs at China's major airports. Overt bribery of border protection agents by an ordinary Chinese citizen would be difficult because of sensitivities to corruption, the professional and comparatively well-paid status of the Public Security Ministry, and the high-profile nature of its work. DFAT is aware of fraudulent documents being used in support of visa applications (such as hukou registration, proof of employment, academic transcripts, banking statements and ID cards). DFAT assesses these documents are relatively easy to produce and are commonly used in visa applications. DFAT has been told of the existence of sophisticated syndicates that service call centres set up specifically to provide targeted background stories in support of fraudulent documents used in visa applications.



Australian Government
Department of Foreign Affairs and Trade



DFAT THEMATIC REPORT FUJIAN PROVINCE, PEOPLE'S REPUBLIC OF CHINA

16 December 2016

CONTENTS

ACRONYMS	2
1. PURPOSE AND SCOPE	3
2. BACKGROUND INFORMATION	4
Recent History	4
Demography	4
Economic Overview	5
Political System	5
Security Situation	6
3. REFUGEE CONVENTION CLAIMS	7
Race/Nationality	7
Religion	7
Political Opinion (Actual or imputed)	10
Groups of Interest	11
4. COMPLEMENTARY PROTECTION CLAIMS	15
5. OTHER CONSIDERATIONS	16
State Protection	16
Internal Relocation	16
Treatment of Returnees	16
Documentation	17
Prevalence of Fraud	17

ACRONYMS

- CPA Catholic Patriotic Association
DFAT Department of Foreign Affairs and Trade
TSPM Three-Self Patriotic Association

1. PURPOSE AND SCOPE

1.1 This Thematic Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to Fujian Province and the People's Republic of China.

1.2 The report provides a general, rather than an exhaustive overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the *Migration Act 1958* states that:
Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources in the People's Republic of China. It takes into account relevant and credible open source reports, including those produced by Amnesty International, China Aid, Human Rights Watch, International Monetary Fund, UK Home Office, UN Development Programme, UN Women, US Department of State and World Bank. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 See also DFAT's Country Information Report on the People's Republic of China (3 March 2015) and DFAT's Thematic Report on Unregistered Religious Organisations and Other Groups in the People's Republic of China (3 March 2015).

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Fujian Province ('Fujian') is located in the south-east of the People's Republic of China, bordered by Zhejiang Province to the north, Jiangxi Province to the west and Guangdong Province to the south. Its main cities are Fuzhou, Xiamen and Quanzhou, which are all located along or close to the coast facing the Taiwan Strait. The landscape is largely mountainous and heavily forested.

2.2 For much of its history, Fujian was geographically isolated from other parts of China due to its rugged terrain and limited infrastructure. This isolation, along with ethnic and linguistic diversity, enabled local religions to thrive to a greater degree than elsewhere. Fujian's links with other areas of China increased following the mid-1950s completion of a railway line that connected its largest city, Xiamen, to other areas of China.

2.3 Another major city, Quanzhou, linked Tang dynasty China (618 – 907) with South East Asia through trade and shipping. Because of poverty and poor agricultural productivity, Fujian residents have a long history of emigration to Southeast Asia and, in more recent times, to the US, Europe, Australia and Africa. Fujian is considered the historic 'hometown' of many overseas Chinese, with an estimated 10 million people originating from Fujian now residing overseas.

2.4 The historical willingness of people from Fujian to travel overseas continues today. Despite Fujian being home to only 2.8 per cent of the Chinese population, an estimated 10 per cent (approximately 800,000) of all Chinese passports were issued in Fujian in 2015.

DEMOGRAPHY

2.5 According to the 2015 Fujian Statistical Yearbook, Fujian has a population of approximately 38 million people, a moderate size by Chinese standards. According to the 2010 National Population Census, the growth rate in Fujian was 0.611 per cent, slightly above the national growth rate of 0.57 per cent. Fujian has approximately 300 people per square kilometre, which is relatively low compared to neighbouring provinces of Zhejiang and Guangdong that both have over 500 people per square kilometre. Approximately 23.5 million people live in urban areas, and 14.5 million people live in rural areas. Between 2000 and 2010, the percentage of the population living in urban areas increased by an estimated 15 per cent.

2.6 Aside from the majority Han, who account for approximately 97.8 per cent of the population, there are a number of officially recognised ethnic minorities in Fujian, including the She (otherwise referred to as the Ho Ne or Hounie), Miao (otherwise referred to as the Hmong) and Manchu. The She is the largest ethnic minority group in Fujian, although it remains extremely small in absolute terms. Fujian is also home to significant cultural and linguistic minorities, including Hui and Hakka (Kejia), who are both ethnically Han, and Minnan-speaking peoples. Fujian is famous for its diverse dialects and languages, with Min Nan and Min Dong the two largest linguistic groups in Fujian.

2.7 According to the 2010 National Population Census, among women in Fujian who have had children, 68.2 per cent have had one child, 28.7 per cent of women have had two children and 3.1 per cent have had three or more children. By contrast, the 2015 Fujian Statistical Yearbook estimates that, based on a sample survey, among women in Fujian who have had children, 44 per cent have had two children and 3.3 per cent have had three or more children.

ECONOMIC OVERVIEW

2.8 Fujian's economy expanded rapidly after 1979, when the coastal city of Xiamen was designated as one of the first 'Special Economic Zones' (aimed at experimenting with economic liberalisation) in China. However, Fujian's ascent has not been on the same scale as its neighbour Guangdong (which hosted the other three 'Special Economic Zones'). While Guangdong benefited from its proximity to Hong Kong, Fujian has been slow to take advantage of its geographic proximity to other economically advanced cities and regions.

2.9 Despite this, Fujian's economy is strong compared to many other areas in China. In 2015, Fujian's economy was ranked 11th out of 31 administrative divisions across China and 8th by GDP per capita, despite it being one of China's smaller provinces (representing just over one per cent of the country's landmass and 2.8 per cent of the Chinese population). In 2015, Fujian had a GDP of approximately RMB2,598 billion (AUD550 billion) and a GDP per capita of RMB67,966 (AUD14,397). The disposable urban income per capita was RMB33,275 (AUD7,051) in 2015 and the net rural per capita income was RMB13,793 (AUD2,923).

Education


2.10 According to the 2010 National Population Census, 29.8 per cent of the population in Fujian attained primary qualifications, 51.8 per cent of the population attained secondary qualifications and 8.4 per cent of the population attained tertiary qualifications. Taken as a whole, educational levels are slightly lower than the national average. The literacy rate in Fujian was 97.6 per cent in 2010, slightly above the national average.

Employment

2.11 Growth in Fujian's economy has been traditionally driven by an abundance of low-skilled, low-cost labour, both coming in from poorer inland provinces and going out to wealthier cities and regions, such as Guangdong. Consistent with broader efforts to restructure the Chinese economy, Fujian has promoted the development of more high-tech, value-added sectors. The decline of traditional manufacturing industries has increased the unemployment rate (particularly among recent graduates). According to the 2015 Fujian Statistical Yearbook, the rate of unemployment (among individuals of working age registered in urban areas in non-agricultural activities) was 3.47 per cent.

POLITICAL SYSTEM

2.12 Fujian is divided into nine prefectures including Fuzhou, Xiamen, Zhangzhou, Quanzhou, Sanming, Putian, Nanping, Longyan and Ningde. Prefectures are further sub-divided into 85 county-level divisions including 26 townships, 14 county-level cities and 45 counties.



2.13 As with other Chinese provinces, the government of Fujian is subordinate to China's central government in Beijing. In practice, however, Fujian's provincial authorities, like authorities in other Chinese provinces, enjoy a degree of autonomy in implementing economic and social policy. The provincial government of Fujian has the power to enact its own legislation, or regulations, clarifying the local implementation of laws adopted centrally by the National People's Congress. You Quan was appointed Party Secretary for Fujian in 2012 and Yu Wiguo was appointed as the Governor of Fujian in January 2016, after his predecessor (Su Shulin) was investigated for corruption.

2.14 'Grass-roots elections' to select leaders at the local (village) level take place in Fujian, but DFAT is unable to comment on their frequency or legitimacy.

SECURITY SITUATION

2.15 DFAT assesses that the security situation in Fujian broadly accords with the information contained in DFAT's March 2015 Country Information Report on the People's Republic of China (see 2.21 – 2.23, DFAT Country Information Report on the People's Republic of China, 3 March 2015). Within the boundaries available to local authorities in all Chinese provinces, anecdotal discussions with in-country contacts suggest that authorities in Fujian Province may be slightly more flexible compared to local authorities in some other areas in China. Despite this, central authorities in Beijing retain the ability to assert control throughout all Chinese provinces, including Fujian.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 China's Constitution prohibits discrimination on the grounds of nationality and contains provisions that protect people's ability to both use and develop their own spoken and written languages as well as to preserve and reform their own customs. According to the Constitution, China upholds and develops 'equality, unity and mutual assistance' among all of China's nationalities.

3.2 At 97.8 per cent of the population, the Han dominate the political, economic and social landscape in Fujian, with only a very small number of non-Han in Fujian (see '[Demography](#)').

3.3 Along with other areas in China, the Chinese Communist Party has adopted a range of policies that preferentially benefit members of ethnic minorities in Fujian. This includes a more flexible approach to family planning issues (see [3.26](#)). Some in-country contacts have stated that minority ethnic groups are well respected in Fujian, while others suggest that there may be low levels of societal discrimination, particularly with regards to employment, because minority groups were historically poor and lacked educational opportunities. Broadly speaking, DFAT assesses that members of ethnic minorities in Fujian (including the She, Miao and Manchu) as well as other cultural and linguistic minorities (including the Hui and Hakka Han groups and Minnan-speaking peoples) are able to go about their day-to-day lives and are able to access housing, employment, education and government services without experiencing official discrimination or violence on the basis of their ethnicity.

RELIGION

3.4 Article 36 of the Constitution of the People's Republic of China states that citizens enjoy freedom of religious belief, and that no state organ, public organisation or individual may compel citizens to believe in, or not believe in, any religion. However, the establishment of government-affiliated organisations to regulate and monitor the five officially recognised religions (Buddhism, Taoism, Islam, Catholicism and Protestantism) has, in theory (and, in some circumstances, practice), restricted religious freedom in China.

3.5 Generally speaking, individuals in Fujian can practice religion within state-sanctioned boundaries, as long as such practices do not challenge the interests or authority of the Chinese Communist Party. In practice, the Chinese Communist Party obstructs religious practice at an organisational level, and is largely indifferent to religious practice at the individual level, with the exception of Party members, who are not permitted to follow any officially recognised or other religion. Religious adherents can be subject to a range of restrictions that are inconsistent or lack transparency. An individual's ability to practice religion can be influenced by whether the individual exercises their faith in registered or unregistered institutions, whether they practice openly or privately, and whether or not an individual's religious expression is perceived by the Chinese Communist Party to be closely tied to other ethnic, political and security issues.

Three-Self Patriotic Movement and Catholic Patriotic Association

3.6 The Three-Self Patriotic Movement (TSPM) and the Catholic Patriotic Association (CPA) are government-affiliated organisations that regulate and monitor Protestant and Catholic churches in China. The TSPM was established in China in 1949 to oversee China's non-denominational Protestant Church. The 'Three-Self' is a Chinese abbreviation for the Church's three principles of self-administration, self-financing and self-evangelisation. The CPA has managed Catholic affairs in China, including the appointment of Bishops, since 1957. The CPA does not recognise the authority of the Holy See and while there have been some discreet interactions between the CPA and the Vatican, a significant divide between the two remains.

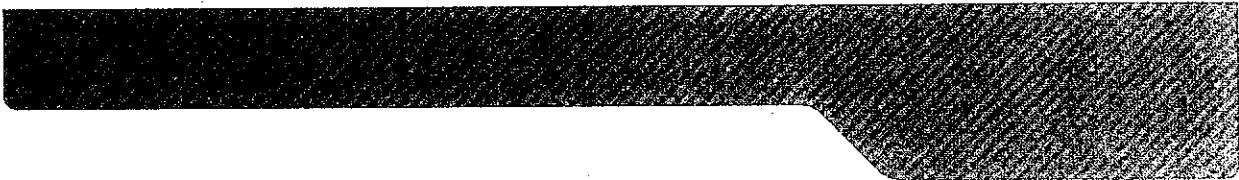
3.7 Large numbers of people in Fujian worship in TSPM- and CPA-linked places of worship. Asia Harvest, a Christian US NGO, estimates that there were 1.88 million TSPM-linked worshippers in Fujian and 908,000 CPA-linked worshippers in 2011. More recent data on the number of TSPM- and CPA-linked places of worship in Fujian is difficult to obtain. However, TSPM- and CPA-linked places of worship (including prominent crosses outside places of worship) are clearly visible in Fujian. In-country contacts suggest that there are approximately 120 CPA-linked places of worship across Fujian and over 200 TSPM-linked places of worship in and around Fuqing City alone (including one that holds over 2,000 worshippers at any one time). In contrast to neighbouring Zhejiang Province, where the Zhejiang provincial government has recently demolished 'illegal structures', including prominent crosses and places of worship and other religious sites, DFAT is unaware of any recent credible evidence of a similar campaign against TSPM or CPA-linked places of worship in Fujian. Bibles and other religious paraphernalia are readily available for purchase at TSPM- and CPA-linked places of worship in Fujian and credible sources confirmed to DFAT that these were generally accessible to the public.

3.8 DFAT assesses that direct interference by local authorities in the operations of TSPM or CPA-linked churches in Fujian rarely occurs (particularly compared to other areas in China) and that worshippers at TSPM- and CPA-linked churches are generally able to openly practice their religion, including with a significant amount of public visibility (by attending clearly identified churches, for example), without interference. Beyond basic operations, some TSPM- and CPA-linked churches in Fujian also provide social services, such as palliative care, which in-country contacts said was encouraged by local authorities.

3.9 Publicly challenging the authority of the Chinese Communist Party can attract overt attention from local authorities. In practice, this is most likely to affect leaders of large TSPM or CPA-linked congregations who are perceived to be using their position to challenge the authority of the Chinese Communist Party (such as through using sermons to criticise the Party). Should an individual involved in a TSPM or CPA-linked church attract overt attention from local authorities, in-country contacts suggest that they may be subjected to detention, intimidation and/or harassment. In-country contacts also suggest that high-level leaders of TSPM or CPA-linked churches in China are sometimes prevented from travelling overseas, although DFAT has no evidence about the likelihood of this occurring in Fujian or to individuals from Fujian.

Unregistered, Underground or 'House' Churches

3.10 Unregistered churches (otherwise referred to as underground or house churches) are predominantly independent Protestant and Catholic congregations which refuse to acknowledge or associate with the officially sanctioned TSPM and CPA. By definition, unregistered churches are clearly subject to less control by the state than TSPM- and CPA-linked churches but also operate at greater risk given their unregistered status. Some in-country contacts questioned the validity of the 'registered' and 'unregistered' dichotomy, pointing out that members of a congregation will often move between the two.



3.11 Asia Harvest estimates that in 2011 there were 1.57 million worshippers of Protestant-linked unregistered churches and one million worshippers of Catholic-linked unregistered churches in Fujian. Accurate data on the number of unregistered churches in Fujian is unavailable, however in-country contacts report that they are able to be identified and accessed, particularly by Protestants.

3.12 Given that legislative protections for freedom of religious belief extend only to government-affiliated organisations (such as the TSPM and the CPA), the operations of unregistered churches depend on the attitude of local authorities. Their treatment varies greatly across China, and within Fujian. Generally speaking, in-country contacts suggest that local authorities in Fujian tolerate the operations of unregistered churches who operate discreetly, including by limiting the number of worshippers and meeting in inconspicuous locations. DFAT understands that congregations of up to 50 people can meet weekly in private houses without being closed down / repressed by local authorities.

3.13 Broadly speaking, DFAT understands that should an unregistered church or an individual perceived to be associated with an unregistered church engage in active and public proselytising, or are perceived to openly criticise the Chinese Communist Party or the framework that regulates religious practice, the church or individual would likely be exposed to harassment, raids and destruction of property, pressure to join or report to TSPM- and CPA-linked churches and occasional violence and criminal sanction. In practice, this is more likely to affect leaders of unregistered churches, rather than individual worshippers. Leaders who amass a large (undefined) and unregulated congregation or personal following can also attract negative attention from the authorities.

3.14 Representative examples of the treatment of unregistered churches in Fujian are difficult to obtain. China Aid documented the destruction of an unregistered church (the Yulin Christian Church) in Fujian in January 2016 (although the events leading up to this incident are unknown). DFAT is unable to comment on the frequency of this occurring in Fujian, but open-source reporting and credible in-country contacts suggest that it has not been a common occurrence.

3.15 Charismatic leaders perceived to be associated with an unregistered church that come to the overt attention of local authorities are sometimes accused of committing offences unrelated to religious practice, such as fraud or corruption.

Other Groups Including ‘Cults’

3.16 The interpretation of what constitutes a cult can vary throughout China. Groups such as the Guanyin Method Sect (Guanyin Famen or the Way of the Goddess of Mercy), Zhong Gong and Falun Gong are all specifically banned by the Government. A number of heterodox Christian-linked denominations are also considered cults, including the Shouters, the Eastern Lighting, the Society of Disciples (Mentu Hui), the Full Scope Church, the Spirit Sect, the Three Grades of Servants, the Association of Disciples, the Lord God Sect, the Established King Church, the Unification Church, the Family of Love and the South China Church. Many of these groups have been historically present in Fujian. DFAT assesses that the current situation for individuals involved in cults in Fujian aligns with information included in DFAT’s March 2015 Thematic Report on Unregistered Religious Organisations and Other Groups in the People’s Republic of China (see 3.20 – 3.41, Thematic Report on Unregistered Religious Organisations and Other Groups in the People’s Republic of China, 3 March 2015).

POLITICAL OPINION (ACTUAL OR IMPUTED)


3.17 Article 35 of China's Constitution states that citizens of the People's Republic of China enjoy freedom of speech, the press, assembly, association, procession and demonstration. In practice, however, the Chinese government continues to limit political and religious freedoms in the interest of stability and one party rule. Restrictive provisions in recent legislation, such as China's new National Security Law (passed in July 2015), Anti-Terrorism Law (passed in December 2015) and the Foreign NGO Law (passed in March 2016), together with China's ongoing censorship of the internet and media, reflect the Chinese Communist Party's continued attempts to limit political and religious freedom and limit the growth of civil society.

3.18 In recent years, freedom of expression has declined across China. While individuals are generally able to express dissent privately, there has been a notable increase in the number and intensity of restrictions on individuals and organisations which seek to openly discuss sensitive issues or criticise the Chinese Communist Party. Authorities are increasingly monitoring and targeting more moderate civic groups and non-government organisations, in addition to their longstanding focus on prominent critics, intellectuals and human rights activists. While activists in largely non-sensitive areas (such as women's rights, discrimination, public health including HIV/AIDs, labour rights and environmental protection) were previously more or less tolerated by authorities, now even grassroots activists are facing increased scrutiny, intimidation, harassment and arbitrary detention.

3.19 There are a number of recent and credible open-source examples of individuals or organisations throughout China being targeted for criticising or threatening the authority of the Chinese Communist Party:

- In May 2015, prominent blogger and campaigner Wu Gan was taken into custody after protesting outside Jiangxi High Court in Jiangxi Province in support of four men who he claimed authorities had convicted and sentenced based on evidence obtained through torture. Wu was subsequently transferred to Fujian, where he was detained on suspicion of 'defamation' and 'picking quarrels and provoking trouble'. He was formally charged with 'picking quarrels and provoking trouble' and 'inciting subversion of state power', and denounced in media.
- In July 2015, authorities detained and interrogated approximately 100 lawyers across China working on human rights who had signed a public petition calling for the release of another lawyer who had been detained. Media reports suggested that the lawyers were part of a 'criminal gang' who insisted on 'causing trouble'. Nine of those detained were held in residential surveillance at an undisclosed location and were subsequently charged in January 2016 with 'inciting state subversion' or 'state subversion' which attracts sentences of between five years and life imprisonment.
- In January 2016, the Beijing Zhongze Women's Legal Counselling and Service Centre was ordered to close its doors. Some open-source reports suggest the reason behind the service centre's closure was its sources of foreign funding, which is considered sensitive.
- In April 2016, volunteer journalist Wang Jing was sentenced to nearly five years imprisonment in Jilin Province for causing disorder. Wang had published articles about police harassing, detaining and beating protestors on *64 Tianwang*, an independent online media source. Authorities reportedly stated that her articles were defamatory and accused her of causing trouble.

3.20 Individuals who openly discuss sensitive issues or criticise the Chinese Communist Party are likely to attract overt attention from authorities. In practice, this is likely to affect protestors and petitioners, human rights activists (including lawyers), academics and individuals linked to independent media outlets or civil society organisations. Credible in-country contacts suggest that should an individual come to the attention of authorities, they may experience intimidation and harassment, restrictions on freedom of movement (both



domestically and internationally), arbitrary arrest and detention, subversion of due process and character assassination by official Party-controlled media outlets.

3.21 DFAT assesses that the situation for individuals in Fujian who are perceived to express dissent, advocate for human rights, or criticise the Chinese Communist Party has deteriorated since 2013. However, anecdotal discussions with in-country contacts suggest that authorities in Fujian Province may be slightly more flexible compared to local authorities in some other Han-dominated areas and much more flexible than local authorities in non-Han dominated areas, within the boundaries available to local authorities in all Chinese provinces.

GROUPS OF INTEREST

Women


3.22 Article 48 of China's Constitution states that women enjoy equal rights with men in all spheres of life. The Law on the Protection of Women's Rights and Interests provides further protections, including the right to equal ownership of property, inheritance, education and equal pay for equal work. DFAT assesses that the situation for women in Fujian mirrors the experience of women in China more broadly (see 3.36 – 3.38, DFAT Country Information Report on the People's Republic of China, 3 March 2015) and that discrimination against women in Fujian remains a significant problem.

3.23 Domestic violence in Fujian is a significant issue, as it is throughout China (estimates suggest that between 25 per cent and 40 per cent of women nationally are affected by domestic violence). The Chinese government is trying to implement more stringent legislation to protect individuals experiencing domestic violence; the first Anti-Domestic Violence Law was passed by the National People's Congress in March 2016. However, the Anti-Domestic Violence Law does not include protections for former spouses and same-sex couples and does not make specific reference to economic abuse or sexual violence, (including spousal rape). In-country contacts were unable to point to specific support services in Fujian for individuals experiencing domestic violence, other than the All-China Women's Federation. Contacts stated that mediation between victims and perpetrators was culturally accepted, and that perpetrators were unlikely to face any formal opprobrium by authorities unless the incident was considered particularly severe.

Sexual Orientation and Gender Identity

3.24 China does not explicitly criminalise consensual same-sex (or other non-heterosexual) activities between adults. However, it also lacks anti-discrimination legislation protecting individuals on the basis of their sexual orientation and gender identity. The UN Development Programme released the findings of a survey titled 'Being LGBTI in China' in May 2016. The survey found that the most common forms of discrimination experienced by LGBTI respondents were verbal abuse, being asked to change appearance or being encouraged to change behaviour. The majority of respondents said they did not reveal their identity at work or in a religious setting, and around 60 per cent thought families were not accepting of LGBTI family members.

3.25 Broadly speaking, DFAT assesses that the situation for LGBTI individuals in Fujian mirrors the experience of LGBTI individuals in China more broadly (see 3.39 – 3.41, DFAT Country Information Report on the People's Republic of China, 3 March 2015). In-country contacts report that lesbian and gay, individuals in Fujian continue to experience low-level social discrimination, mainly in the form of social pressure to marry and have children. Such pressures are more common in rural areas. Broadly speaking, tolerance towards



lesbian and gay individuals is slowly growing, particularly in larger cities (such as Fuzhou and Xiamen). Younger lesbian and gay individuals in these areas are able to live their lives with relative openness. DFAT is unable to comment specifically on the situation for bisexual, trans or intersex individuals in Fujian. DFAT understands that there are a small number of domestic civil society organisations which provide support to LGBTI individuals and their families. These organisations often find it difficult to officially register as NGOs and generally keep a low public profile (see 3.39 – 3.41, DFAT Country Information Report on the People's Republic of China, 3 March 2015).

People Affected by Family Planning Policies

3.26 On 27 December 2015, the National People's Congress amended the Population and Family Planning Law with effect from 1 January 2016. Changes to the Population and Family Planning Law included the full implementation and encouragement of a two-child policy (provided couples continue to meet other health, age and timing requirements), the cancellation of forced contraception and changes to certain leave entitlements for parents (including maternity and paternity leave). The Fujian People's Congress passed implementing provincial-level regulations on 19 February 2016. As with the March 2014 Population and Family Planning Regulation of Fujian (see 3.28), DFAT understands that the amended regulations include provisions for some couples to have a third child, including if:

- The first child has a disability preventing them from working in the future and the couple is deemed medically suitable to give birth to an additional child.
- Between them have two children from previous marriages.
- Either of them is a single child and resides in a national minority township.
- One of them is Han and the other (and their children) is registered as a member of a national minority, and the couple has lived in a national minority township for more than five years.

3.27 The term 'returned overseas Chinese couple' refers to couples who had permanently settled in foreign countries but who have given up their long-term, permanent or lawful right of residence and returned to China. Citizens who are based temporarily abroad, such as those who are abroad for study or employment purposes are not considered to be 'returned overseas Chinese couples'. DFAT understands that the amended February 2016 Population and Family Planning Regulation of Fujian is not applicable to children born overseas to 'returned overseas Chinese couples' who either remain overseas and do not return to China with their parents or who were born overseas and return to China for an accumulated period of less than 18 months in two years. Returned overseas Chinese couples who return to China may then give birth on their return to further children in accordance with the regulations.

3.28 Along with many other provinces in China, Fujian was already implementing regulations which allowed couples in certain circumstances to have more than one child. For example, the previous March 2014 Population and Family Planning Regulation of Fujian provided that:

- A couple may give birth to a second child if the husband or wife are only children; the couple were diagnosed as sterile, adopted a child and then become pregnant; the first child has a non-inherited disability; or the husband or wife becomes disabled because of a work accident.
- A rural couple may give birth to a second child if the husband's brothers have no children and are all sterile; the wife has a brother who supports his wife's family but not his own family; the husband and wife live in an area with negligible population density; or the couple only has one daughter.

- A returned overseas Chinese couple (see 3.27) may give birth to a second child if they were already pregnant by the time they returned to China; have been returned overseas Chinese for less than six years and only have one other child; or the couple's children reside overseas.
- A couple who are members of a national minority (with the exception of the Zhuang nationality) may give birth to a second child if they are peasants or have resided or worked in a national minority township for over five years. Further, the couple may give birth to a third child if both the husband and wife are only children or if one of the two children is disabled.

3.29 Authorities in China use incentives and penalties to achieve compliance with family planning regulations. Social Compensation Fees (also referred to as Social Maintenance Fees) are the most common disincentive used in Fujian. According to the March 2014 Population and Family Planning Regulation of Fujian, Social Compensation Fees are calculated on the basis of average annual disposable income for urban residents or the average annual net income for rural residents, or residents' actual income, whichever is the greater). The fee is levied on a multiplier basis, depending on the couple's circumstances. The March 2014 Population and Family Planning Regulation of Fujian provided that:

- A Social Compensation Fee of 0.6 to 1 times will be imposed on those who give birth to a child ahead of schedule.
- A Social Compensation Fee of 2 to 3 times will be imposed on those who give birth to an additional child. A Social Compensation Fee of 4 to 6 times will be imposed on those who give birth to a second additional child. Heavier Social Compensation Fees will be imposed on those who give birth to additional children.
- A Social Compensation Fee of 4 to 6 times will be imposed on those who give birth to a child born out of an extra-marital affair (including those who give birth to a child out of wedlock). Heavier Social Compensation Fees will be imposed on those who give birth to additional children born out of an extra-marital affair.

3.30 Average annual disposable incomes for urban residents and net average incomes for rural areas differ according to the county, city or district. In Fuqing (a county-level city near Fuzhou with a population of approximately 1.34 million people) the average annual disposable income for rural residents was RMB32,279 (AUD6,840) and the average net annual income for rural residents was RMB15,061 (AUD3,190) in 2013. Social Compensation Fees calculated in 2014 were based on these figures.

3.31 DFAT understands that the Social Compensation Fee multiplier rates for people in breach of the amended February 2016 Population and Family Planning Regulation of Fujian (ie. couples who have a third child) are likely to be similar to the multiplier rates described in the March 2014 Population and Family Planning Regulation of Fujian outlined above.

3.32 Credible information on the actual Social Compensation Fees charged in practice is difficult to obtain. The actual application of Social Compensation Fees varies across Fujian and is subject to local discretion (and leaves open the possibility of individual or institutionalised manipulation). The March 2014 Population and Family Planning Regulation of Fujian states that the decision to impose a Social Compensation Fee may be made at the county, township or neighbourhood level. DFAT is aware of verdicts by the Fujian High Court in late-2015 imposing Social Compensation Fees of approximately RMB50,000 (AUD10,595) for couples who gave birth to a second son, in violation of the Population and Family Planning Regulation of Fujian. In 2014, Fujian courts recorded 1,628 cases involving payments arrears of Social Compensation Fees over RMB100,000 (AUD21,190). However, DFAT also understands that local authorities in Fujian are able to show considerable discretion in charging Social Compensation Fees. Factors that would influence local authorities when charging Social Compensation Fees may include whether a couple is cooperative, is underage and/or from a low income family.

3.33 While there has been some speculation that any outstanding Social Compensation Fees for children born in breach of the March 2014 Population and Family Planning Regulation of Fujian would be waived, DFAT understands that the waiving of outstanding Social Compensation Fees remains at the discretion of local authorities. In March 2016, the Deputy Chairman of the Fujian Family Planning Association stated that if parents had received previous notification of Social Compensation Fees, these penalties stood. If individuals who had children in breach of the March 2014 Population and Family Planning Regulation of Fujian had not received notification of Social Compensation Fees, local authorities would not pursue the issue further. DFAT therefore understands that outstanding Social Compensation Fee notices issued under the March 2014 Population and Family Planning Regulation of Fujian are still enforceable. The February 2016 Population and Family Planning Regulations of Fujian only applies to children born after 1 January 2016 or in cases where Social Compensation Fee notices have not been issued for children born prior to 1 January 2016.

3.34 DFAT is aware of a range of measures that have been used in Fujian to secure payment of Social Compensation Fees, including applying personal pressure through personal calls and visits. In July 2015, the Fujian Health and Family Planning Commission signed a Memorandum of Understanding with the Fujian High Court, the Fujian Development and Reform Commission and the Fuzhou Branch of the People's Bank of China to list people who failed to pay Social Compensation Fees on a 'black list', limiting their ability to bid for government-linked contracts, apply for loans or credit cards, obtain market access certificates for their businesses, board planes or book soft berth tickets on trains.

3.35 Notwithstanding that these measures demonstrate that many couples in Fujian seek to evade payment of Social Compensation Fees, in-country contacts suggest that widespread awareness of the fees means couples wishing to have an additional child in violation of the relevant regulations often save the required Social Compensation Fee in order to do so. DFAT assesses that for the vast majority of residents in Fujian, Social Compensation Fees operate akin to a form of unwelcome taxation, rather than as a punitive arbitrary measure.

3.36 While the March 2014 Population and Family Planning Regulations of Fujian permitted unspecified 'remedial measures' to be taken against an individual violating its provisions, in-country contacts suggested that the use of extreme remedial measures, such as forced sterilisation or late term abortions (which have occurred previously in China), was unlikely in Fujian.

3.37 The hukou (or household registration) system ties access to services including health and education to an individual's place of birth or, in some circumstances, their parent's place of birth (see 5.4). In August 2015, the Fujian Public Security Department implemented a new 'Household Registration Management System' which directed local authorities to not treat the payment of Social Compensation Fees as a prerequisite for accepting an application for a hukou (residence permit). Children whose unauthorised birth might previously have gone unregistered are now able to apply for a hukou irrespective of whether relevant Social Compensation Fees have been paid.

4. COMPLEMENTARY PROTECTION CLAIMS

4.1 DFAT assesses that conditions in Fujian broadly accord with the information on Arbitrary Deprivation of Life, Death Penalty, Torture and Cruel, Inhuman or Degrading Treatment or Punishment included in DFAT's March 2015 Country Information Report on the People's Republic of China (see 4.1 – 4.10, DFAT Country Information Report on the People's Republic of China, 3 March 2015). DFAT is not aware of any credible information to suggest that people in Fujian have any greater or reduced risk compared to people in other areas of China with regard to these issues.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 DFAT assesses that conditions in Fujian broadly accord with the information on State Protection included in DFAT's March 2015 Country Information Report on the People's Republic of China (see 5.1 – 5.26, DFAT Country Information Report on the People's Republic of China, 3 March 2015). DFAT is not aware of any credible information to suggest that people in Fujian have any greater or reduced risk compared to people in other areas of China with regards to State Protection.

INTERNAL RELOCATION

5.2 Between 2000 and 2010, the percentage of the population living in urban areas of Fujian increased by an estimated 15 per cent, demonstrating the strong trend of people moving from rural to urban areas, predominantly in search of better employment opportunities. However, the hukou (or household registration) system has historically hindered rural migrants' ability to access services such as education and healthcare when internally relocating.


5.3 Hukou reform has been proceeding throughout China as part of wider economic reforms for some time in an effort to control urbanisation. In Fujian, authorities no longer distinguish between urban and rural hukou – all households are now registered as 'residents' and are entitled to access available social services. Despite this, local authorities throughout China still have significant flexibility in setting stricter (or looser) restrictions in order to control population flows to urban areas and therefore limit associated pressure on social services (which are often of a higher quality in urban areas, thereby exacerbating inequality between urban and rural residents). This flexibility has also created a greater potential for corruption.

5.4 Under the new system, children may be registered under the hukou of either parent, who must normally supply supporting documentation including the child's birth certificate, household registration books of the parents, identification cards of the parents and the marriage certificate of the parents. If the child is born out of wedlock, the registering parent must supply a 'declaration' of the child's situation and/or a paternity test certificate.

5.5 Hukous do not expire, but the supporting documentation (such as identity cards) must be renewed every 10 years, otherwise they do expire.

TREATMENT OF RETURNEES

5.6 The Exit and Entry Administration Bureau under the provincial Public Security Department monitors who exits and enters Fujian, both via airports and through other means of public transport which require citizens to show their national identity cards. Given recent technological developments, DFAT considers it highly likely that there is a centralised list of high-profile individuals who are prevented from traveling internationally, and that this list is available to relevant security agencies.



5.7 DFAT is not aware of any evidence that suggests a failed asylum seeker returning to Fujian would be distinguishable from the broader community or susceptible to any form of discrimination or violence. An asylum seeker returning to Fujian who had or was perceived to have openly expressed dissenting political views or criticised the Chinese Communist Party and was therefore on the centralised list (see 5.6) and/or considered high-profile may be treated adversely in line with the conditions outlined in 'Political Opinion' (see 3.17 – 3.21).

DOCUMENTATION

5.8 DFAT assesses that types of documentation used in Fujian broadly accord with the information on Documentation included in DFAT's March 2015 Country Information Report on the People's Republic of China (see 5.17 – 5.26, DFAT Country Information Report on the People's Republic of China, 3 March 2015).

PREVALENCE OF FRAUD

5.9 DFAT understands that there is a well-established history of individuals from Fujian using fraudulent documents to obtain visas. Fraudulent activity is supported by highly organised and well-resourced networks of agents and counterfeiters. High-risk documents include financial and employment records, which can be either bogus or altered.

5.10 Organised syndicates selling immigration packages for visa applicants are active in Fujian. Syndicates have been known to alter identity documents such as passports or national identification cards to misrepresent the applicant's place of birth (to avoid greater scrutiny of their applications). DFAT understands that applicants originating from Fuqing, Lianjiang and Pingtan have demonstrated particularly high rates of fraud and non-compliance.



Australian Government
Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT PEOPLE'S REPUBLIC OF CHINA

21 December 2017

CONTENTS

ACRONYMS	3
GLOSSARY	4
1. PURPOSE AND SCOPE	5
2. BACKGROUND INFORMATION	6
Recent history	6
Demography	6
Economic overview	7
Political System	8
Human Rights Framework	10
Security situation	11
3. REFUGEE CONVENTION CLAIMS	12
Race/Nationality	12
Religion	14
Political Opinion (actual or imputed)	22
Groups of Interest	23
4. COMPLEMENTARY PROTECTION CLAIMS	32
Arbitrary Deprivation of Life	32
Involuntary and enforced disappearances	32
Death Penalty	33
Torture	33
Cruel, Inhuman or Degrading Treatment or Punishment	34
5. OTHER CONSIDERATIONS	37
State Protection	37
Internal Relocation	38
Treatment of Returnees	39
Documentation	40
Prevalence of Fraud	42

ACRONYMS

CCC	Chinese Christian Council
CCDI	Central Commission for Discipline Inspection
CCP	Chinese Communist Party
CCPA	Chinese Catholic Patriotic Association
CSO	civil society organisation
NPC	National People's Congress
OECD	Organisation for Economic Cooperation and Development
PAP	People's Armed Police
PBSC	Politburo Standing Committee
PISA	Programme for International Student Assessment (run by OECD)
PLA	People's Liberation Army
PRC	People's Republic of China
RIC	resident identity card
RMB	renminbi, also referred to as CNY (Chinese Yuan), China's official currency
SARA	State Administration for Religious Affairs
SARFT	State Administration for Radio, Film and Television
TAR	Tibetan Autonomous Region
TSPM	Three-Self Patriotic Movement
UNDP	United Nations Development Programme

Some sensitive anniversaries and events in the Chinese calendar

Five-yearly CCP Congress held in October in years ending in 2 and 7 (last Congress in October 2017)

Annual events and anniversaries

Early March:	'Two meetings' – official meetings of the NPC and the Chinese People's Political Consultative Conference
10 March	anniversary of the 1959 Tibet uprising that led to the flight of the Dalai Lama to India
4 June	anniversary of the deployment of PLA troops against protesters in Beijing's Tiananmen Square and surrounds in 1989

GLOSSARY

<i>guanxi</i>	(literally) connection; social networks and individual relationships which facilitate business and other interactions
<i>hukou</i>	government household registration system, which requires all Chinese citizens to register in their locality of origin and which can affect a person's ability to access services outside that locality
<i>shuanggui</i>	(literally) double or parallel rules; a system of discipline for members of the CCP run by the Central Commission for Discipline Inspection
<i>sinicisation</i>	the process of adapting foreign (usually western) concepts and practices to Chinese culture and practice; used by the CCP to adapt foreign concepts to CCP ideology

Terms used in this report

high risk	DFAT is aware of a strong pattern of incidents
moderate risk	DFAT is aware of sufficient incidents to suggest a pattern of behaviour
low risk	DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

1. PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian government policy with respect to the People's Republic of China.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is informed by DFAT's on-the-ground knowledge and a range of sources in the People's Republic of China. It takes into account relevant and credible open source reports, including, but not limited to: Chinese government's official web portal; Chinese and international media; Amnesty International; BBC News Asia; China Human Rights Defenders; CNN; Committee to Protect Journalists; Duihua; Human Rights Watch; Immigration and Refugee Board of Canada; International Campaign for Tibet; International Monetary Fund; New York Times; Radio Free Asia; Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; The World Bank; Tibetan Centre for Human Rights and Development; UN Office of the High Commissioner for Human Rights; United Nations Development Program; United Nations Office of the High Commission for Refugees; United States Agency for International Development; United States Bureau of Democracy, Human Rights and Labor; United States Commission on International Religious Freedom; and Xinhua. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report released on the People's Republic of China published on 3 March 2015 and the DFAT Thematic Report on Unregistered religious organisations and other groups in the People's Republic of China, also published on 3 March 2015.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Mao Zedong proclaimed the People's Republic of China on 1 October 1949 following the Chinese Communist Party's (CCP's) victory against Chiang Kai-shek's Nationalist forces and the latter's subsequent withdrawal to Taiwan.

2.2 Since the announcement of Deng Xiaoping's 'reform and opening up' policy in 1979, China has undergone profound economic change. China's economy has transformed from a poor, planned and primarily agricultural economy to become the second largest in the world, resulting in an unprecedented rise in living standards. The World Bank estimates 800 million Chinese have been lifted out of extreme poverty since 1978.

2.3 Political liberalisation has been slower and has recently regressed in some areas. Although Chinese citizens are able to exercise a significant degree of personal choice in relation to employment, education, travel and commerce, the CCP restricts most forms of organised or published critical political expression and opposition. Recognising that limited freedom of expression enables the government to monitor potentially problematic social issues, the Chinese government has tolerated some criticism, but only in government-controlled forums. Government actions in recent years suggest the space for such limited criticism is narrowing (see [Political Opinion \(actual or imputed\)](#)).

DEMOGRAPHY

2.4 Mainland China has a population of 1.38 billion and a total land area of 9.6 million square kilometres. In 2013, urban residents accounted for 55.6 per cent of the total population. In 2016, six of the world's 31 megacities (with populations over 10 million) and 20 of the world's 50 fastest growing cities were in China. China's largest city is the municipality of Shanghai (population 24 million in 2016). The municipality of Beijing (the capital) is the second largest (population 21 million in 2016). The Pearl River Delta region, which includes Guangzhou and Shenzhen, has a combined population of over 40 million.

2.5 Aside from the majority Han who account for approximately 92 per cent of the total population, the Chinese government officially recognises 55 other ethnic groups. Mandarin (Putonghua) is the national language but there are currently 299 living languages in use. Mainland China has 22 provinces, five autonomous regions (the Inner Mongolia Autonomous Region, Xinjiang Uighur Autonomous Region, the Guangxi Zhuang Autonomous Region, the Ningxia Hui Autonomous Region and the Tibet Autonomous Region) and four municipalities (Beijing, Chongqing, Shanghai and Tianjin) that report directly to the central government.

ECONOMIC OVERVIEW

2.6 China is the world's second-largest economy (after the United States), the largest exporter of goods, second-largest importer of goods, the third-largest exporter of services and second-largest importer of services. China's economy averaged real annual GDP growth of 9.4 per cent between 1978 and the onset of the global financial crisis in 2008. Since then, economic growth has slowed with slowing capital and labour productivity. According to China's National Bureau of Statistics, China's GDP grew 6.7 per cent in 2016.

2.7 The Asian Development Bank ranks China as an upper middle-income country. China's major cities have per-capita income levels equal to those of the poorest OECD member countries, and around three times those of rural areas. China is among the 25 per cent least equal countries in the world, despite strong income growth amongst its poor.

2.8 China was the first developing country to meet the UN Millennium Development Goal of halving the number of people living in poverty before 2015. By the end of 2016, however, 43.35 million people (about 3 per cent of the population) were still living below the government's decreed annual poverty line of 2,300 RMB (approximately AUD 400). Severe, entrenched poverty remains, particularly in remote areas in China's western and central provinces, with poor infrastructure, education and health services. Poverty is more pronounced among ethnic minorities.

2.9 China's 13th Five Year Plan (2016-2020), the first plan released under President Xi Jinping's leadership, set an annual growth target of 6.5 per cent. The Plan outlined measures to rebalance the economy away from resource-intensive, fixed-asset investment and export-driven growth towards domestic consumption and environmentally sustainable services-led growth. President Xi has made eliminating poverty by 2020 one of the government's top priorities. Persistent rural poverty is a challenge to the CCP's main political goal of doubling China's 2010 per capita income by 2020 to become an 'all-round moderately prosperous society' by the centenary of the founding of the CCP in 2021.

2.10 China is the world's largest energy consumer, accounting for half of global coal consumption. A key focus of economic reform measures is to improve the quality of the living environment. Air pollution continues to reach hazardous levels, particularly in the north-eastern provinces that are the location for heavy-polluting iron, steel and cement-producing industries.

2.11 China's society is ageing rapidly owing to significant advances in the quality of and access to healthcare combined with decades of low fertility rates, due in part to family planning policies. China's fertility rate of 1.6 births per woman is below the replacement level of 2.1. The traditional preference in Chinese society for boys, combined with decades of the one-child policy, have contributed to a sex ratio of 1.16 male births to every one female birth (compared with a natural rate of 1.05:1). The government changed its family planning policies in 2016 to allow all families to have more than one child (see [People affected by Family Planning Policies](#)).

2.12 China's demographic challenges, combined with high levels of income inequality, rapid urbanisation, challenges to environmental sustainability, as well as risks posed by a declining property market and significant levels of debt (particularly at the provincial level), pose challenges to future growth.

Health

2.13 China ranks 90 out of 188 countries listed on the UNDP's 2015 Human Development Index. Average life expectancy at birth in China is 74.83 years with geographical variations, particularly between urban and rural areas. Health care varies significantly between urban and rural areas. High quality public health care is available in the main urban centres, but only those with the relevant urban *hukou* (household registration)

have access (see [Hukou \(household registration\) system](#)). Health care in rural areas is of a lower standard, and public provision is patchy. China's unusually high household savings rate partly reflects the need for families without urban *hukou* (including migrant workers in cities) to save for future health costs.

Education

2.14 Despite a nine-year compulsory education policy, children in China attend school for 7.6 years on average, although the figure varies according to location. China's adult literacy rate is 96.4 per cent. Education standards vary considerably across the country. Schools in the high-income regions of Beijing, Shanghai, Jiangsu and Guangzhou perform well against international benchmarks such as the OECD's Programme for International Student Assessment (PISA); schools in rural areas are under-resourced and must often not only educate, but also accommodate and feed students who live in remote areas. Many children in rural areas are left alone, or in the care of grandparents, while their parents seek employment in urban centres (see [Hukou \(household registration\) system](#)), leading to high rates of malnutrition, mental health issues and delinquency.

Employment

2.15 China's reported unemployment rate has been consistently around 4.1 per cent since 2011. This rate counts only registered workers with an urban household registration (see [Hukou \(household registration\) system](#)), and does not include urban workers holding a rural registration, nor workers in rural areas. The official retirement age is 60 years for men and 55 or 50 years for women.


2.16 Since 2013, reforms to state-owned enterprises and market developments in the coal and steel sector have led to pockets of underemployment and effective unemployment in coal- and steel-producing provinces, notably Liaoning, Heilongjiang, Shenyang and Shanxi. In March 2017, the government announced it would lay off 1.8 million workers in the coal and steel industries as part of efforts to reduce industrial over-capacity. While the government has committed to re-deploying all workers, anecdotal evidence suggests many laid-off workers are returning to subsistence lifestyles in rural areas, working for significantly less or not finding work. At the same time, wages in manufacturing have been rising and now exceed those in much of southeast Asia. The service sector in China continues to grow, with rising wages.

2.17 DFAT assesses that employment conditions and economic opportunity are a significant driver of internal migration within China, particularly from rural to urban areas. DFAT finds little evidence to suggest these factors are significant drivers of emigration from China.

POLITICAL SYSTEM

2.18 China is a one-party state governed by the CCP. While minor political parties exist, they are approved by and subordinate to the CCP. The Party's peak leadership body, the Politburo Standing Committee (PBSC), is responsible in practice for making all key decisions on foreign and domestic policy. The head of the Party, General-Secretary Xi Jinping (concurrently President and Chairman of the Central Military Commission) is a member of the PBSC. PBSC members are drawn from the subordinate 25-member Politburo, which in turn is drawn from the Party's central committee. The 2017-2022 PBSC has seven members, the same number as for the 2012-2017 term.

2.19 China's government enacts policy decisions. The government is subordinate to the Party, which is an integral element of the government structure. Senior government officials at all administrative levels



concurrently hold Party positions, and in almost all cases the local Party Secretary outranks the most senior government position. These structures are replicated across the country's various administrative levels. The National People's Congress (NPC) is the highest state body, and is China's closest approximation to a parliament. The State Council is the most important administrative body of the central government. It oversees the implementation of policy decisions, as well as regulations and laws adopted by the NPC. The Premier (currently Li Keqiang) is head of the State Council and China's Head of Government. Premier Li is also a member of the PBSC.

2.20 Governments at the provincial level and below are responsible for the majority of public expenditure on health, education, unemployment insurance, social security and welfare. They have the power to enact their own regulations as a means of implementing laws adopted centrally. Below the provincial level are prefectural-level administrative units, counties and county-level cities, and finally townships and towns.

2.21 The government has allowed 'grass-roots elections' to take place every three to five years at the local (village) level in some provinces. This administrative level is outside the formal four-tier government system. According to China's *Election Law*, any citizen can become a candidate as long as they are nominated by the Party or receive ten signatures supporting their candidacy. Party-appointed local election committees must confirm candidates, publish final lists of candidates, set rules for campaigning, and count and announce results. In practice, candidates not put forward by the Party are rarely successful.

Corruption

2.22 China ranked 79 out of 176 countries and territories measured on Transparency International's 2016 Corruption Perceptions Index. On taking office in 2013, President Xi Jinping launched a nation-wide anti-corruption campaign promising to catch officials of both high and low rank. The crackdown has caught over 1,800 officials, including 182 officials ranked at or above the deputy provincial or deputy ministerial level. The campaign has led to the arrest, expulsion from the Party or conviction for corruption of 1,130 officials (including 139 senior officials). Ousted senior officials include provincial Party secretaries, former generals, and former Politburo Standing Committee member Zhou Yongkang. Targets include state-owned enterprise bosses and officials who have fled China with large sums of public money. The Central Commission for Discipline Inspection (CCDI) oversees corruption investigations of Party members, and internal Party supervision. The CCDI has expansive powers to investigate, seize evidence and detain any Party official for months without a warrant. The CCDI operates in secret and outside the formal legal system as a Party justice mechanism, with the power to expel members from the Party. After expulsion of a member, it often transfers its investigations to the court system where officials have received lengthy prison sentences. Conviction rates for corruption cases, as with all criminal cases, are close to 100 percent. Chinese authorities have announced plans to establish in 2018 a new national anti-corruption watchdog, the 'National Supervision Commission', which would bring anti-corruption and prosecutorial activities of party and government organs under one agency. The Party Central Committee's Propaganda Department maintains tight control over media coverage of the anti-corruption campaign and, consequently, state media rarely play a watchdog role. Authorities have detained members of the public, including journalists, who have sought to publicise official corruption.

Guanxi

2.23 *Guanxi* is the Mandarin term for a system where progress in business or government relies heavily on patronage networks. Literally meaning 'connection', *guanxi* historically manifested through the provision of gifts, meals and favours. Along with China's rapid economic development, expensive gifts of branded

cigarettes and alcohol or lavish banquets quickly advanced to gifts of large sums of money, property or title. The government has introduced a range of austerity measures to limit official hospitality in line with its anti-corruption campaign. Despite this, patronage networks and the notion of 'building *guanxi*' remains important within Chinese culture, particularly in business and government. A person's *guanxi* can affect their ability to secure favourable outcomes such as access to senior officials, enrolment in preferred schools, universities, jobs or legal outcomes. A lack of *guanxi* can render such favourable outcomes unattainable.

HUMAN RIGHTS FRAMEWORK

National Human Rights Institution

2.24 China's Constitution provides for freedom of speech, the press, assembly, association and religious belief. Article 33 states that 'all citizens of the People's Republic of China are equal before the law. The State respects and preserves human rights'. In practice, however, China's Constitution is non-justiciable and these freedoms are significantly curtailed. China's one-party political system lacks effective safeguards to allow independent monitoring and investigation of human rights abuses by the state such as an independent media, judiciary or National Human Rights Institution.

2.25 In October 2016, China's State Council issued a 'White Paper on China's Progress in Poverty Reduction and Human Rights', the 16th such report on human rights issued since 1991. The human rights White Papers emphasise China's view of human rights in strongly aspirational rather than legal terms. They stress the importance of improvements in social and economic rights over civil and political rights or ethnic and minority rights. China published its National Human Rights Action Plan (2016–2020) in October 2016.

2.26 In formal terms, China has opted into the international human rights framework by acceding to a range of human rights instruments. China has ratified the following international human rights conventions: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of Persons with Disabilities; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography. China has acceded to the International Convention on the Elimination of All Forms of Racial Discrimination. China has signed but not ratified the International Covenant on Civil and Political Rights and is the only permanent member of the UN Security Council not to have ratified.

2.27 China has generally pursued a defensive agenda within UN human rights institutions, focusing on curbing criticism of China by the UN and other governments. China occasionally permits external examination of its human rights situation. UN visits have examined issues of arbitrary detention (1997 and 2004) education (2003); freedom of religion (2004); torture (2005); food (2010); discrimination against women (2013); impacts of foreign debt on human rights (2015); and extreme poverty and human rights (2016). China participated in its second Universal Periodic Review (UPR) in October 2013 and will undergo its next review in November 2018. Although it agreed to allow visits by Special Rapporteurs on a range of issues, including water and sanitation, health, the environment, freedom of expression, human rights defenders, and freedom of assembly at the UPR, China is yet to schedule the visits. Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, visited China in August 2016.

2.28 China served terms on the UN Human Rights Council from 2006 to 2012 and from 2014 to 2016. In October 2016, China was re-elected to the Council for another three-year term beginning January 2017.

SECURITY SITUATION

2.29 Gaining support for CCP policies throughout the country and maintaining social stability are top priorities for the CCP. To achieve this, the government deploys a vast internal security apparatus. China's internal security agencies include: the Ministry of Public Security, which is responsible, *inter alia*, for the police, border security and household registration; the Ministry of State Security, the main intelligence agency; the People's Armed Police (PAP), a paramilitary force responsible for internal security; and the People's Liberation Army (PLA), China's military (see also [Military and Police](#)). In November 2013, President Xi Jinping established a new National Security Commission to strengthen coordination of both international and domestic security issues.

2.30 Security personnel and surveillance technology are ubiquitous throughout China. Some reports estimate 170 million surveillance cameras have been installed in cities and towns across the country in the past decade. Partly as a result, everyday street crime and violence in China's major cities is generally low. Sensitive social groups, including religious organisations, Falun Gong practitioners and human rights activists have alleged that the government uses a range of surveillance methods to monitor their activities. Since 2016, media have reported that Chinese police and security agencies have begun combining photo databases, artificial intelligence and facial recognition technology installed in surveillance cameras to track down criminal suspects and 'destabilising agents' in society.

2.31 Since 2010, China's spending on internal security agencies such as the police, the PAP, the courts and the prison system has outstripped spending on the military. Chinese government spending on domestic security continues to grow, particularly in Xinjiang and Tibet, to address a perceived threat to social stability in those regions. The 2013 national budget contained planned spending of \$123.7 billion on internal security (excluding the PLA), compared to \$119 billion on defence. Most foreign experts, foreign governments and relevant publications concur that Chinese statistics on security spending do not include some outlays that are standard reporting for most other countries and that there is no way to verify the accuracy of the numbers reported by China. China's defence budget is estimated to have increased by seven per cent, from RMB 954 billion (AUD181 billion) in 2016 to RMB 1.02 trillion (AUD195 billion) in 2017. The defence budget is estimated to comprise two per cent of total GDP. From 2005 through 2015, China's official defence budget increased at an average rate of 9.5 per cent per year in real terms.

2.32 In June 2017, China's National People's Congress Standing Committee passed a new national intelligence law. The law calls upon all elements of Chinese society, including individuals, to contribute to national intelligence work. The law *inter alia* empowers security agencies: to launch intelligence operations in China and abroad; to collect intelligence on foreign bodies 'engaged in activities that may harm China's national security or its interests'; to monitor suspects, raid premises or seize vehicles during the investigation of domestic or foreign individuals or groups; to gain priority use of transportation or telecommunications equipment, buildings or enterprises; and to employ 'technical reconnaissance' measures with permission. The law explicitly requires security agencies to act in strict compliance with laws relating to the protection of human rights, and states agencies should not exceed their authority or abuse their powers.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 China's Constitution (Chapter Two – Fundamental Rights and Duties of Citizens) prohibits discrimination on the grounds of ethnicity and protects people's ability to use and develop their own spoken and written languages, and to preserve or reform their own folk customs.


3.2 Comprising 92 per cent of the total Chinese population, the Han dominate the political, economic and social landscape in China. China's largest ethnic minority is the Zhuang (1.3 per cent). The remaining 7.1 per cent of the population comprises mostly Hui, Manchu and Uighurs who each number around 10 million. Tibetans and Mongols each number approximately 6 million. According to China's Constitution, the government upholds 'equality, unity and mutual assistance' among all of China's 56 nationalities.

3.3 China has 155 Autonomous areas (consisting of the five 'regions' mentioned previously, as well as 30 'prefectures' and 120 'counties') distributed throughout its territory where people of one ethnic minority live in concentrated communities. These areas represent 44 of China's total 55 recognised ethnic minorities and account for 64 per cent of China's total territory. According to China's Constitution and the *Law on Regional Ethnic Autonomy*, autonomous regions have greater legislative authority than provinces, including a certain degree of self-government (for example, senior government representatives can be drawn from the dominant ethnic group). Official figures indicate that ethnic minorities represented approximately 14 per cent of delegates to the NPC. In 2013, 10 individuals from ethnic minority groups were elected to the 205 member Central Committee.

3.4 In Tibet and Xinjiang (the only two autonomous regions where the largest ethnic minority group outnumbers the local Han population), the Chinese government has undertaken considerable investment that has improved livelihoods and material living standards. Rising numbers of (mostly Han) migrants have, however, increased competition for economic opportunities, and altered traditional livelihoods and cultural practices. In some cases, resulting grievances have led to resentment and violence between Han and ethnic minority communities. Broader political issues compound the situation for Uighurs and Tibetans.

Ethnic Uighurs

3.5 Uighurs are ethnically Turkic people native to Central Asia. The estimated 11 million Uighurs in China live mostly in the southern, poorer areas of the Xinjiang Uighur Autonomous Region (Xinjiang), as well as in Gansu, Qinghai, Tibet and Hunan. Uighurs accounted for around 45 per cent of the total population of Xinjiang in the 2010 census; Han Chinese accounted for around 40 per cent. This reflects decades of state-sponsored Han resettlement: in 1949, Han comprised only an estimated six per cent of the Xinjiang population. In the capital Urumqi, 75 per cent of the population is ethnically Han. Uighurs are predominantly Sunni Muslims but also identify themselves according to a secularised cultural identity and in some cases, traditional Sufism. Average life expectancy in Xinjiang, at 72.35 years, is slightly lower than the national average.



3.6 The Chinese government implements a range of policies to support the Uighur community, including access to education and employment and, until 2017, less restrictive limits on family size. These policies have, however, been accompanied by increased restrictions on cultural and religious freedoms: in June 2017, the Hotan Prefecture Education Department banned the use of the Uighur language in Hotan schools. Many Uighur groups and international human rights organisations claim the Chinese government's policies, including those aimed at modernising Xinjiang's economy, maximising exploitation of minerals and resources and encouraging Han migration, have disproportionately benefitted the Han community and undermined Uighurs' religious and ethnic identity (see [Muslims](#)). The government's heavy security presence in Xinjiang has increased inter-ethnic tensions.

3.7 Several violent incidents have occurred in Xinjiang in recent years, resulting in Uighur and Han casualties. Riots in Urumqi on 5 July 2009 resulted in approximately 200 (mostly Han) deaths. More recently, terrorism incidents purportedly linked to Uighur separatists have occurred throughout Xinjiang as well as in Yunnan and Beijing. The government has implemented a zero-tolerance campaign against separatists and terrorists, and boosted its security presence across Xinjiang. This approach has intensified since August 2016, when the former Party Secretary of Tibet, Chen Quanguo, became Party Secretary of Xinjiang. Authorities continue to cite the need to curb extremism to justify extreme security measures, including monitoring Xinjiang's ethnic minorities through widespread collection of DNA samples, fingerprints and voice records. DFAT is unable to verify claims by overseas Uighur groups that the Chinese government subjects many Uighurs in rural prefectures to forced labour (*'hashar'*). In November 2016, the government confiscated the passports of all Uighurs in Xinjiang, citing the need to prevent terrorists from travelling to the Middle East as foreign fighters. Any Uighur wishing to travel abroad must now apply to have their passport returned. Over 200 Uighur students in Egypt have been arrested and returned to China at the request of the Chinese government since July 2017. According to press reports, many returned students have been sent to 're-education' camps to be instructed in 'correct political thought' in an environment of military-style discipline. According to reports, security agencies have also allegedly detained family members of those abroad (see [Arbitrary Arrest and Detention](#)).

3.8 The government has carried out high-profile prosecutions of persons with suspected links to violent incidents. These have included mass arrests, mass trials and mass sentencing. Sentences have included the death penalty and executions have been carried out. Some Uighurs have received lengthy sentences for their political views: a prominent Uighur academic, Ilham Tohti, has been serving a life sentence since 2014 for alleged separatism for advocating on social media greater cultural and religious autonomy for Uighur people. Others have received lengthy prison sentences for actions such as circulating passages from the Koran, for praying in groups, and for observing Ramadan (see [Muslims](#)). Human rights organisation Duihua estimates there are several thousand Uighurs in prison for political crimes in China. Chinese authorities tightly control access to information about incidents of violence in Xinjiang and related legal cases, and information is difficult to verify.

3.9 Some middle-class Uighurs who have been educated in Mandarin can integrate into Han society and even join the CCP. Uighurs serve in the Xinjiang administration and a Uighur is Vice Chairman of the National Development and Reform Commission. Such cases are, however, the exception. Uighurs with poor Mandarin skills have trouble obtaining employment in Han-dominated companies, and Uighurs (including those with good Mandarin skills) report discrimination in other parts of the country, including being denied accommodation at hotels or being subjected to regular security and police checks either out in the street or in their homes.

3.10 While it is difficult to separate ethnicity and religion in relation to Uighurs, DFAT assesses that Uighurs in Xinjiang and in other parts of China face a high risk of official discrimination due to their ethnicity, particularly where authorities perceive them to be politically or religiously active (see [Muslims](#)). Uighurs in other parts of China face a moderate risk of societal discrimination due to their ethnicity.

Ethnic Tibetans

3.11 There are over six million ethnic Tibetans in China, mostly residing in the Tibetan Autonomous Region (TAR) as well as ethnically Tibetan areas of Gansu, Yunnan, Qinghai and Sichuan. The Chinese government has invested heavily in economic development in the TAR in line with its 'leapfrog development' policy. According to government statistics, 400 billion RMB (approximately AUD74 billion) has been invested since 1959. The region has a 15-year free compulsory education policy and residents are entitled to 75 to 95 per cent reimbursement for medical care. Officially, farmers and herders are exempt from agricultural taxes. The government claims to have provided 90 per cent of farmers and herders with new government-built housing, although DFAT is aware of cases of Tibetans forced to give up their centrally located land in exchange for government housing in city outskirts. According to the UNDP China Human Development Report, average life expectancy in the TAR was 68.17 years in 2010, compared to a national average of 74.83. In 2015, 37 per cent of Tibetans aged 15 and older were illiterate, compared with around 5 per cent of Chinese overall. Ethnic Tibetans participate in the TAR government, including in senior roles, and middle-class Tibetans educated in Mandarin can live and work in other parts of China.

3.12 Tibetan activists and human rights groups claim the benefits of development have disproportionately accrued to Han migrants and have come at the cost of traditional Tibetan livelihoods, the environment, and religious freedom. Policies to maintain stability include mass surveillance and propaganda campaigns. Media and NGO reports say Tibetan authorities have confiscated passports of ethnic Tibetans in the TAR, Gansu, Qinghai and Sichuan since 2015. Since 2013, the Nepalese government has increasingly detained and repatriated Tibetans crossing informally into Nepal, and Tibetans crossing from Nepal into India.

3.13 In March 2008, on the eve of the 49th anniversary of a Tibetan uprising against Chinese rule, protests by Tibetan monks in Lhasa turned violent with numerous Han Chinese casualties. The International Campaign for Tibet lists 731 Tibetans imprisoned since then, some of whom have been released, some executed, and some of whom have died in custody (see [Deaths in Custody](#)). The International Campaign for Tibet lists the names of 150 Tibetans who have self-immolated in protest against Chinese government policies in Tibet or in support of the Dalai Lama's return to Tibet. Tibetan groups report official discrimination against and surveillance of Tibetans travelling in non-Tibetan areas of China. The Chinese government restricts travel by foreigners, particularly foreign diplomats and media, to the TAR, making it difficult to verify the situation on the ground. Foreigners who have travelled to Tibet report a heavy security presence throughout the region.

3.14 DFAT assesses that Tibetans face a high risk of official discrimination in the TAR and other Tibetan regions in China. Ethnic Tibetans in other parts of China face a moderate risk of official and societal discrimination.

RELIGION

3.15 China is a religiously diverse country with a rich and complex society of faiths, belief systems and organised religious groups. Confucianism, Taoism and Buddhism constitute the 'three teachings', a philosophical framework which historically has had a significant role in shaping Chinese culture, including traditional folk religions. Christianity has been present in China since the seventh century but increased when Catholics became active in the late thirteenth century and through Protestant Christian missionaries in the nineteenth century. The establishment of the PRC in 1949 under the control of the atheist CCP resulted in the expulsion of Christian missionaries and the establishment of 'Patriotic Associations': government-affiliated organisations which seek to regulate and monitor the activities of registered religious organisations on behalf of the CCP.

3.16 It is difficult to provide exact figures on the number of religious believers in China. Chinese government statistics record approximately 100 million religious believers in total, including over 23 million Protestants, six million Catholics, and over 22 million Muslims. Approximately 5,500 religious groups, nearly one hundred religion-affiliated academic institutions and as many as 140,000 registered places of religious activity are officially recognised. The Chinese government recognises 360,000 registered clergy.

3.17 In practice, the number of religious believers is likely to be much higher and rising, particularly in unregistered Protestant Christian organisations, whose numbers approximate 70 to 100 million. China is home to an estimated 12 million Catholics, of whom approximately seven million belong to 'underground' churches not affiliated with the government-sanctioned Chinese Catholic Patriotic Association (CCPA). Around 50,000 new Catholics are baptised in state-recognised churches every year.

3.18 Several hundred million people observe to some degree aspects of Buddhism, Daoism and 'folk religion'. Despite the atheist nature of the ruling CCP, as many as 25 per cent of Party officials are estimated to engage in some type of religious activity (mostly associated with Buddhism or folk religion).

Government Framework regarding religion


3.19 Article 36 of the PRC Constitution states that citizens enjoy freedom of religious belief, and that no state organ, public organisation or individual may compel citizens to believe in, or not believe in, any religion. Discrimination on the basis of religion is prohibited by law.

3.20 The conditions governing the establishment of religious bodies and religious sites, the publication of religious material, and the conduct of religious education and personnel are outlined in the Regulations on Religious Affairs (RRA) which came into effect in 2005. At the national level, the CCP's United Front Work Department, State Administration for Religious Affairs (SARA), and the Ministry of Civil Affairs provide policy guidance and supervision on the implementation of the regulations. Local authorities, including provincial religious affairs bureaux, have significant discretion in implementing the regulations.

3.21 Chinese law recognises five religions (Buddhism, Taoism, Islam, Catholicism and Protestantism), members of which must register with the government's Patriotic Associations mentioned above. These organisations are overseen by SARA and must be independent of foreign associations (notably the Vatican). Protestants must be non-denominational. Registered religious organisations may own property, publish literature, train and approve clergy, collect donations and conduct charitable activities. Government subsidies are available for the construction of state-sanctioned places of worship and religious schools. Unregistered religious organisations are illegal and vulnerable to punitive official action.

3.22 Registered religious adherents may proselytise in registered places of worship and in private settings but not in public. Foreigners may not proselytise. Registered religious organisations may not distribute unapproved literature nor associate with unregistered religious groups. Revised regulations adopted in September 2017 (see below) prohibit religious groups in China from accepting any foreign donations, which were previously permitted. Parallel provisions in a 2016 law on foreign NGOs prohibit them from donating funds to Chinese religious organisations, or raising funds on their behalf.

3.23 In April 2017, President Xi Jinping called on CCP officials working in religious administration to reassert the Party's 'guiding' role in religious affairs. Xi's speech emphasised the need to 'sinicise' religion, to ensure religious rights did not impinge on CCP authority, and to enforce the prohibition on Party members to belong to any religion. In September 2017, the (government) State Council approved revisions to the 2005 *Regulations on Religious Affairs*, which devolve substantial powers and responsibility to local authorities to prevent illegal religious behaviour, including undue influence from foreign organisations. The new regulations, which come into force in February 2018, also impose large fines for organising illegal religious



events or fundraising. They restrict religious education in schools, detailing procedures for approval and monitoring of religious training institutions. The regulations emphasise the need to prevent 'extremism', indicating they may target Uighur Muslims and Tibetan Buddhists; the devolution of enforcement to local government and Party authorities, however, means that unregistered Christian churches are also likely to be affected.

3.24 Broadly speaking, religious practice in China is possible within state-sanctioned boundaries, as long as such practices do not challenge the interests or authority of the Chinese government. Restrictions on religious organisations vary widely according to local conditions, making it difficult to generalise. Those who practise their faith in unregistered institutions are more vulnerable to adverse official attention than those in registered institutions. Public expressions of faith are more vulnerable to adverse treatment than private worship (including in small groups). Religious practice that the government perceives as being connected to broader ethnic, political or security policies is at high risk of adverse official attention.

Muslims

3.25 According to China's National Minorities Policy, there are more than 30,000 mosques in China, 23,000 of which are in the Xinjiang Uighur Autonomous Region. China's other significant Muslim community, the Hui, are much more assimilated. The Hui population is concentrated in northwestern China – Gansu and Qinghai provinces and the Ningxia Autonomous Region – with other communities in other parts of the country. Hui speak Mandarin and look similar to Han Chinese. Recent restrictions on religious expression have, however, led some Hui to fear increasing restrictions on their religious practice.

3.26 Chinese law restricts expressions of the Islamic faith, and officials apply the law rigorously in relation to Uighur Muslims. In 2017, restrictions which had been in place for some time were formalised in law, including bans against wearing full veils, growing beards, use of religious names for Muslim newborns, and marrying only in a religious ceremony. In June 2017, a Xinjiang court sentenced a person to two years in prison for posting Islamic religious instruction on social media. Uighurs have been jailed for distributing unauthorised religious material on the internet. Radio Free Asia reported in September 2017 that Xinjiang police were confiscating all 'Islamic-related items', including prayer mats and copies of the Koran.

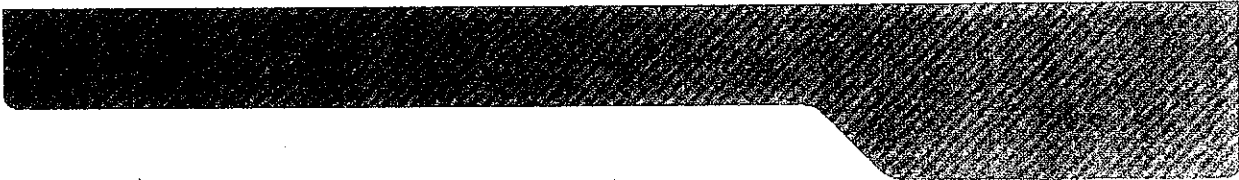
3.27 Chinese law prohibits people under the age of 18 from attending prayer at mosques, fasting by government officials or students during Ramadan, and private religious education. In 2016 and 2017, officials in Xinjiang actively policed Ramadan observance, reportedly forcing people to eat during the day.

3.28 DFAT assesses that Uighur Muslims in Xinjiang face a high risk of official discrimination based on their religion. Uighur Muslims outside of Xinjiang face a high risk of official discrimination due to their religion and a moderate risk of societal discrimination. Non-Uighur Muslims in other parts of China (Hui Muslims) face a low risk of official and societal discrimination, although official discrimination may increase with the implementation in February 2018 of the revised *Regulations on Religious Affairs*.

Tibetan Buddhists

3.29 The vast majority of ethnic Tibetans in China are Buddhist. According to China's *White Paper on Progress in China's Human Rights in 2014* (published in 2015), 'Freedom of religious belief of ethnic minorities is fully guaranteed'. The 2014 White Paper (the last to be published), details benefits available to Tibetan monks and nuns, who number 46,000.

3.30 Chinese authorities strictly control religious observance within the TAR and Tibetan regions of Sichuan, Qinghai and Gansu. In March 2017, the government demolished over 3,000 homes at Larung Gar,



the world's largest Tibetan Buddhist institution, in Sichuan province and sent resident monks and nuns to the TAR, where human rights groups claim they were subject to 'patriotic education'. Tibetans may not display images of the Dalai Lama, or otherwise show veneration for him. Tibetans must also not display veneration for Gedhun Choekyi Nyima, nominated in 1995 by the Dalai Lama as the incarnation of the Panchen Lama, Tibetan Buddhism's second most senior spiritual leader (see [Involuntary and enforced disappearances](#)). Tibetans must instead venerate the Chinese-nominated Panchen Lama, Gyaltzen Norbu.

3.31 State Religious Affairs Bureau Order No 5, *Measures on the Management of the Reincarnation of Living Buddhas*, decreed that the government must approve all reincarnations, and would recognise reincarnations only from approved temples.

3.32 The government has detained monks and nuns suspected of supporting Tibetan separatism, or who actively support the exiled Buddhist spiritual leader, the Dalai Lama. It has also detained and harassed Tibetans seen to participate in activity deemed hostile to the Chinese state, including protests, provision of assistance to people viewed as dissidents, failure to report prohibited behaviour, possession of images of the Dalai Lama, and attendance at funerals for people who have self-immolated.

3.33 At a societal level, Buddhism occupies a place of historical influence and respect, and Tibetan protests against the government are largely confined to the TAR and other Tibetan regions. Consistent messages from the state and CCP about the threat of Tibetan splittism, the evil intent of the Dalai Lama and the primitive and exotic nature of Tibetan culture, however, feed ignorance about Tibetan religious practice.

3.34 DFAT assesses that Tibetan Buddhists in Tibetan regions face a high risk of official discrimination, which may lead to violence. Ethnic Tibetan Buddhists in other parts of China face lower risk of official discrimination based on religion (see [Ethnic Tibetans](#)). Practitioners of Tibetan Buddhism who are not ethnic Tibetan face low risk of official or societal discrimination based on their religion.


Other Buddhist Sects

3.35 Buddhism has long been acknowledged as a major religious faith in China. Other than the highly distinctive Tibetan Buddhism, however, there is no clear distinction between Buddhism, so-called 'folk religions' and Daoism, all of which exert an influence in Chinese culture. As an East Asian religion, Buddhism has not been targeted for 'sinicisation' in the same way as Christianity or Islam, although DFAT is aware of instances where local officials have targeted Buddhist monks and nuns for performing rites regarded as superstitious.

3.36 Academic studies suggest that Yiguandao (which is an illegal sect in the PRC) ceased to exist in mainland China by the mid-twentieth century, but that it has been gradually re-establishing as an underground movement through the efforts of missionaries from outside mainland China (notably Taiwan and Hong Kong). DFAT is not able to verify the extent to which Yiguandao members practise their faith in China. As it is an illegal organisation, members coming to attention of the authorities are likely to face a degree of harassment, but DFAT is unable to verify the extent or severity of such harassment.

Christians

3.37 In addition to the state-sanctioned Catholic and (non-denominational) Protestant churches in China, SARA permits friends and family to hold small, informal prayer meetings without official registration. This, combined with the controlled nature of religious worship amongst registered Christian institutions, has led to the proliferation of sizeable unregistered Christian communities in both rural and urban China. Known as 'house' or 'family' churches (for Protestant organisations), and 'underground' churches (for Catholic organisations) these bodies are private religious forums that adherents create in their own homes or other



places of worship. 'House' or 'underground' churches vary in size from around 30 to several thousand. Some churches deliberately restrict their numbers to avoid attracting adverse official attention. Government officials are more likely to scrutinize churches with foreign affiliations, or those that develop large or influential local networks, and house churches are under pressure to 'sinicise' their religious teaching.

3.38 Leaders of both registered and unregistered churches are subject to greater scrutiny than ordinary worshippers. Leaders of registered churches must obtain permission to travel abroad. Church leaders (registered or unregistered) who participate in protest activity on behalf of their congregations or elsewhere are at high risk of official sanction, but this is likely to relate more to their activism than to their religious affiliation or practice (see [Political Opinion \(actual or imputed\)](#) and [Protesters/petitioners](#)).

3.39 Members of unregistered churches who participate in human rights activism are at high risk of official discrimination and violence, as are their families (see [Political Opinion \(actual or imputed\)](#)). DFAT assesses that the adverse attention relates to their activism and association with unregistered (and illegal) organisations, rather than specifically to their Christian faith. Heightened government sensitivity over foreign influence creates difficulties for prominent members of unregistered churches seeking to travel abroad, particularly for religious events, and for foreign church organisations to work in China. NGOs report increasing difficulties for mainland Christians seeking to travel to Hong Kong or Macau for religious activities, and for Christian NGOs or activists from Hong Kong and Macau to travel to the mainland.

Protestants

3.40 The Three-Self Patriotic Movement (TSPM), established in 1949, oversees China's 'post-denominational' (i.e. non-denominational) Protestant church and its estimated 23 million members. The 'Three-Self' is a Chinese abbreviation for the church's three principles of self-administration, self-financing and self-evangelisation. The Chinese Christian Council (CCC) and the TSPM supervise approximately 60,000 registered Protestant churches and several hundred thousand affiliated meeting points. Approximately 200 pastors graduate every year from China's single seminary and 20 CCC-run Bible schools. Qualifications from foreign seminaries are not recognised in China.

3.41 Estimates of numbers of unregistered Protestants in China vary from around 30 million to over 60 million. Unregistered Protestant churches risk adverse treatment by authorities due to their illegal status. Adverse treatment can include raids and destruction of church property, pressure to join or report to government-sanctioned religious organisations and, on occasion, violence and criminal sanction, particularly in response to land disputes with local authorities. DFAT considers credible reports of authorities pressuring house churches by cutting off electricity or forcing landlords to evict members. Some members of house churches have been able to use registered church facilities for weddings, or to purchase bibles. Others have reported difficulties in hiring even commercial facilities such as hotels or restaurants because of their association with illegal churches. Christian organisations report that house church members have been arrested in 2017 for refusing to register with the TSPM, and of Christian schools being closed for 'brainwashing' children.

3.42 The Zhejiang provincial government's 2013 urban renewal campaign led to the demolition of several hundred unregistered churches. The US Commission on International Religious Freedom reports over 1,500 church demolitions or removals of crosses since 2014. The government has punished church leaders who oppose the campaign with heavy sentences (up to 14 years) on public disorder charges, as well as apparently unrelated charges such as embezzlement. Authorities have also targeted lawyers defending them (see [Human Rights Defenders \(including Lawyers\)](#)).

Catholics

3.43 The CCPA has managed Catholic affairs in China, including the appointment of bishops, since 1957. The CCPA does not recognise the authority of the Holy See to appoint bishops. Relations between the Vatican (which recognises Taiwan) and the PRC have varied over time. Between 1993 and 2010, the Vatican had discreet input or even right of approval for bishop candidates in some provinces prior to their ordination by the CCPA. Since 2010, the CCPA has ordained most bishops without Vatican input. In April 2013, the *Regulation on the Election and Consecration of Bishops* required candidate bishops to publicly pledge support for the CCPA. Approximately 40 Vatican-ordained bishops remain independent of the CCPA.

3.44 In 2016 the Vatican and CCPA agreed on the ordination of two bishops, but there is still no agreement on the treatment of bishops ordained by each respectively but not recognised by the other. In-country contacts say discussions between the Vatican and Chinese officials have led to little change in the treatment of members of the underground Catholic Church. In May 2017, Vatican-appointed Bishop Peter Shao Zhumin was arrested and detained at a location unknown to the Vatican or his family. Bishop Thaddeus Ma Daqin was released from four years of house arrest in 2016 after he published a statement strongly supporting the CCPA.

3.45 In the past, local authorities required priests to submit sermons and prayers in advance for approval and to regularly provide names and addresses of congregation members. DFAT understands this is no longer required in areas where the Catholic Church has built trust with local officials over time.


3.46 Catholics in China can experience officially-sanctioned harassment and discrimination where authorities regard their activities to be politically sensitive. Catholics in China face a low risk of societal discrimination.

Falun Gong

3.47 Falun Gong (also known as Falun Dafa) is a spiritual movement that blends aspects of Daoism, Buddhism, and Qigong (traditional breathing and meditation). Falun Gong practitioners say the movement has ancient origins, but it first appeared in its modern form in 1992, when founder Li Hongzhi began teaching the exercises in Changchun, Jilin province. Unlike other religions, Falun Gong focuses on private exercises and meditation. The government declared Falun Gong illegal and 'an evil cult' after a large protest by followers at the CCP headquarters in Beijing in 1999. The CCP maintains a Leading Small Group for Preventing and Dealing with the Problem of Heretical Cults to eliminate the Falun Gong movement and to address 'evil cults'. An extrajudicial security apparatus known as the 6-10 Office (named after 10 June 1999 crackdown against Falun Gong) has the task of eradicating Falun Gong activities. The 6-10 office has reportedly created specialised facilities known as 'transformation through re-education centres' to force practitioners to relinquish their faith. Falun Gong reportedly remains active throughout China, but most prominently in Shandong and north-eastern China, although its illegal status makes this difficult to verify.

3.48 Since the abolition of re-education through labour centres in late 2013, Falun Gong practitioners have reportedly been subjected to residential detention or other forms of administrative punishment (see [Arbitrary Arrest and Detention](#)), or have been released after receiving propaganda training. Freedom House states it has independently verified 933 cases between 1 January 2013 and 1 June 2016 of Falun Gong adherents receiving prison sentences of up to 12 years for their beliefs.

3.49 Falun Gong members do not openly proselytise in mainland China, although the movement is active in Hong Kong (where it remains legal) and abroad. Falun Gong practitioners identify potential new members and slowly introduce them to the practices and beliefs of Falun Gong. Falun Gong practitioners are generally



able to practise privately in their homes. Once known to authorities, colleagues or neighbours, however, Falun Gong members face widespread official and societal discrimination.

3.50 Arrested Falun Gong practitioners (leaders and followers alike) commonly receive sentences of three years' imprisonment or less. Correctional officers will pressure Falun Gong practitioners to denounce their faith, and detainees may receive better treatment if they sign confessional statements. DFAT is unable to verify reports that Falun Gong practitioners suffer psychiatric experimentation and organ harvesting.

3.51 On release from detention, Falun Gong members can be placed under surveillance and can experience difficulties finding employment beyond low-skilled jobs. Discrimination against Falun Gong practitioners can extend to family members and can result in the loss of employment, pensions or social relationships. Government officials, members of the police force and employees of state-owned enterprises are commonly required to sign a statement that they and their families are not Falun Gong members. A widespread and sustained government communications campaign against Falun Gong has effectively discredited it within mainstream Chinese society. Unlike other officially designated cults, the government regards Falun Gong practitioners as political opponents rather than victims, and treats them accordingly (see Political Opinion (actual or imputed)). Lawyers who defend Falun Gong practitioners are frequently denied access to their clients in detention or court, and subjected to adverse treatment by authorities (see Human Rights Defenders (including Lawyers)).

3.52 Falun Gong practitioners known to the authorities would likely find it difficult to obtain a passport. DFAT understands some migration agents, particularly in transit countries, may have coached would-be asylum seekers on Falun Gong practices to facilitate their claims.

3.53 DFAT assesses that Falun Gong practitioners, and their lawyers, are at high risk of official discrimination. Due to the government's sustained public campaign against them, Falun Gong practitioners, if exposed, face a moderate risk of societal discrimination.

Other groups, including 'cults'

3.54 The *Criminal Law of the People's Republic of China* provides for prison sentences of up to seven years for individuals who use 'superstitious sects, secret societies or evil religious organisations' to undermine the state's laws or administrative regulations. While the criminal provisions principally target Falun Gong, others who engage in practices deemed superstitious or cult-like can face harassment, detention and imprisonment. In September 2017, the government launched an anti-cult platform on social media called 'Say No to Cult', which includes a function for reporting suspicious activity. Local authorities interpret 'cult' in different ways. Chinese government sensitivities towards religious cults have historical roots: religious cults led significant rebellions during the 19th century. Mainstream Christians tend to deride cults as heretics, but government crackdowns on 'cults' can affect unregistered mainstream Christian churches, as local officials may have difficulty distinguishing unregistered mainstream churches from cults.

3.55 Contemporary banned groups include the Guanyin Method Sect (Guanyin Famen or the Way of the Goddess of Mercy), Zhong Gong (an exercise discipline), and Falun Gong (see above). The government also considers several Christian groups to be 'evil cults,' including the 'Shouters,' Eastern Lightning, Society of Disciples (Mentu Hui), Full Scope Church, Spirit Sect, New Testament Church, Three Grades of Servants (or San Ban Pu Ren), Association of Disciples, Lord God Sect, Established King Church, Unification Church, Family of Love, and South China Church.

The Shouters (Local Church)

3.56 The Shouters (also known as 'Yellers', 'Local Church', 'Recovery Church', 'Assembly Hall' and 'Assemblies') are an offshoot of Watchman Nee's Little Flock in China and were led by Nee's student, Changshou Li who called himself, 'Witness Lee'. Li moved to the United States, where he died in 1997. Li created the Shouters group in the US in 1962, and it was introduced to China in 1979. By 1983 the group had up to 200,000 followers across China. Witness Lee created a 'Recovery Bible' by annotating the standard Bible. He believed that the gift of tongues could be taught, and that salvation could be had by saying 'O Lord' three times'. Shouters are named for their practice of stamping their feet while shouting as part of their worship.

3.57 The CCP targeted the Shouters in the early 1980s as counter-revolutionary. During the 1980s, the Shouters splintered into several groups including the Church of Almighty God (also known as Eastern Lightning – see below). Both it and the Society of Disciples claimed hundreds of thousands of followers in the 1980s. DFAT is unable to verify the extent to which Shouters are still active in China.

Church of Almighty God/Eastern Lightning/Real God Church

3.58 The Chinese government banned the Church of Almighty God, an offshoot of the Shouters, in November 1995. The group is also known as 'The Church of the Almighty God', 'The Congregation', 'Oriental Lightning', 'Seven Spirit Sect', 'Second Saviour Sect', 'True Light Sect', 'True Way Sect', and 'New Power Lord's Church'. Zhao Weishan, a physics teacher from Henan province who later fled to the United States, founded the group in 1989. Adherents believe Jesus returned to earth as a Chinese woman known as 'lightning Deng' (Yang Xiangbin, the wife of Zhao Weishan). Members believe they are in a constant mortal struggle against the 'Great Red Dragon' (a possible reference to the CCP), and that membership of the group will save them from impending apocalypse. The group claims more than a million followers in a seven-level hierarchy. Chinese government sources claim most members are uneducated rural women aged around 50 years.

3.59 State media reports detail abductions; extortion; beatings; murder; seduction; and aggressive proselytising as part of the group's practice of recruiting new members and punishing non-believers, including those seeking to leave the group. The group reportedly encourages members to break away from family. It teaches that non-believers are 'impure' and 'evil', and that the church will give immortality to believers and their families. The group reportedly demands unconditional obedience from low-level believers. Security agencies have arrested large groups of sect members in Qinghai, Guizhou, Ningxia, Henan, Hubei, Xinjiang, Anhui and Liaoning provinces in recent years.

3.60 In May 2014, six church members reportedly beat a woman to death at a McDonald's restaurant in Zhaoyuan, Shandong. Two of the six alleged perpetrators were executed in 2015. Three others received life, ten and seven years respectively in prison for their role in the attack. The sixth was a minor aged 12. The McDonald's case triggered an official crackdown on 'cult' organisations.

3.61 DFAT understands the government's efforts to crackdown on Christian 'cult' organisations aim to identify and punish the leaders, with disciples viewed as victims. The Church of Almighty God in Australia (which denies connection to the McDonald's attack) claims Chinese security agencies have monitored, intimidated, detained and mistreated its members in China since 2011, and its 2017 Annual Report details several such instances. Such treatment would be consistent with government treatment of members of other banned organisations. Stigma associated with cults may make it difficult for members to find defence lawyers, and lawyers taking on their cases are often themselves targets of adverse attention by authorities (see [Human Rights Defenders \(including Lawyers\)](#)).

Jehovah's Witnesses and Mormons

3.62 Interest in non-sanctioned religions including Mormonism, Jehovah's Witnesses, Eastern Orthodox Christianity and the Baha'i faith appears to be rising in China, but numbers are difficult to verify, not least because of their illegal status. Government sensitivity towards foreign influence and CCP mistrust of organisations it does not control would likely make it difficult for Jehovah's Witnesses and Mormons to practise their faith in China. In particular, the legal prohibition on proselytization under the Regulations on Religious Affairs directly conflicts with the religious requirement of both Jehovah's Witnesses and Mormons to proselytise in the broader community. DFAT is not aware of any evidence relating to Chinese citizens who are Jehovah's Witnesses and Mormons practising their faith in China, even in modified form.

POLITICAL OPINION (ACTUAL OR IMPUTED)


3.63 Article 35 of China's Constitution states that citizens of the People's Republic of China enjoy freedom of speech, the press, assembly, association, procession and demonstration. China's National Human Rights Action Plan 2016-2020 outlines the Government's plans to advance the right to expression 'giving more space to public opinion, [...] improving the check and supervision system for the operation of power, and protecting in accordance with the law the citizens' rights of free expression and democratic supervision'.

3.64 In practice, however, laws and regulations enforcing these constitutional rights are not well developed. China's law requires all gatherings of people numbering more than 200 persons to obtain approval from public security authorities. The 1989 *Law of Assemblies, Demonstrations and Processions* puts organisers of unapproved protests at risk of detention or prison sentences, often on public order charges.

3.65 The CCP has little tolerance for public dissent on a wide-range of matters considered politically sensitive, including social stability, the legitimacy of central authorities and one-Party rule and other topics which authorities consider might aggravate social unrest. Examples of issues which authorities deem sensitive include commentary on serious economic, health and environmental concerns, financial risks, land and property issues, ethnic and religious unrest, labour disputes and official responses to natural or anthropogenic disasters. The Party and government may, in limited circumstances, tolerate commentary on corrupt local officials, particularly those already under investigation by the CCDI (see [Corruption](#)). What the authorities deem sensitive can change with no warning.

3.66 Pre-emptive detention of activists and rights defenders is common around sensitive political anniversaries and other high profile political or 'sensitive' events (see [Arbitrary Arrest and Detention](#) and [Acronyms](#) for list of dates). Those publicly advocating greater human or civil rights, including the '709 Lawyers' (see [Human Rights Defenders \(including Lawyers\)](#)), have also been detained and charged under public order offenses or accused of state subversion. Duihua's Political Prisoners Database, which records information about political and religious prisoners incarcerated in China since 1980, contained 34,910 entries at the end of 2016.

3.67 In recent years, several people charged with political offences have appeared on Chinese state television making public confessions to alleged crimes. In some cases, the public confessions have taken place before trial and conviction. Recent examples include several '709' lawyers (see [Human Rights Defenders \(including Lawyers\)](#)), journalists who have exposed official abuse of power, and two registered refugees who were returned from Thailand (see [Involuntary and enforced disappearances](#)). Those confessing commonly express regret for having sought to sow instability and work against the authority of the CCP, and have often included alleged admissions of colluding with 'foreign forces' to destabilise the country. Some have subsequently claimed their confessions were forced.



3.68 Political prisoners can legally be deprived of political rights (freedom of speech, assembly, association, procession, demonstration, vote and holding a position in a state organ) after completing a prison term. In many cases, individuals have been placed under house arrest for extended periods of time after official release from prison (see [Arbitrary Arrest and Detention](#)). Those deprived of political rights can face difficulties finding employment, renting property, travelling freely, and accessing social services. Prisoners and their families have reported harassment or intimidation, including police surveillance, telephone wiretaps, property and body searches.

3.69 Families of dissidents, including children, have also been subject to movement restrictions, exit bans and other forms of harassment by Chinese authorities. The 16-year-old son of a '709' lawyer was placed under effective house arrest from 2015 until late 2017 (see [Involuntary and enforced disappearances](#)). Children of other '709' lawyers have been denied entry to primary school and pre-school, and the spouses of some detained lawyers have reported being evicted from their apartments. Chinese authorities have also reportedly harassed family members in China of overseas dissidents. Overseas Uighur activists have reported police harassment of their China-based families, including jail terms (see [Ethnic Uighurs](#)). Other high profile critics of the Chinese government's human rights record have also reported harassment of their China-based families and some have publicly severed ties with their families in order to protect them from further harassment. DFAT is aware of claims that authorities have confiscated ID cards or hukou of families of dissidents, limiting their ability to access medical care, education and social services.

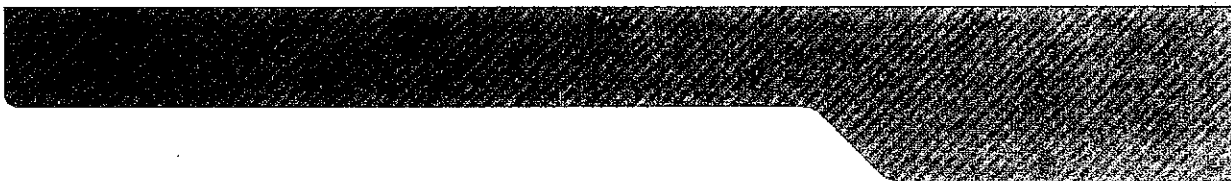
GROUPS OF INTEREST

Human Rights Defenders (including Lawyers)

3.70 The Chinese government views lawyers as civil servants rather than independent practitioners of the law. Lawyers who take on clients and cases the government considers politically sensitive (such as those concerning labour rights, Uighurs, Tibetans, Falun Gong practitioners, or those engaged in 'anti-government' activities) can place themselves at risk of adverse treatment by authorities, including through discrimination, harassment, detention, residential surveillance, movement restrictions, the revocation of lawyer licences and ill-treatment. In its most recent report on China, the UN Committee against Torture expressed serious concern over consistent reports indicating torture and ill-treatment was still deeply entrenched in China's criminal justice system (see [Torture](#)).

3.71 Chinese police arrested and interrogated around 300 human rights lawyers, legal assistants and activists in the '709 crackdown' that began on 9 July 2015. The '709' lawyers worked largely as human rights defenders as well and as such have been treated as 'enemies of the state'. In many of these cases, those detained have disappeared (see [Involuntary and enforced disappearances](#)). In some cases, detainees have appeared in court some months later, and state television has broadcast videos of their alleged confessions at trial (see [Political Opinion \(actual or imputed\)](#)). Other trials have been closed to foreign diplomats and media. In many cases, families of the defendants claim that the authorities forced them to dismiss their own lawyers and accept state-appointed counsel. Some of the dismissed lawyers have themselves been detained and tried.

3.72 It is becoming more difficult for human rights lawyers to practise freely in China. In March 2017, the All-China Lawyers Association issued new regulations 'to protect the rights of lawyers' that put strict limits on courtroom behaviour and imposed sanctions including withdrawal of registration for 'engaging in any activities that might endanger national security, or from making use of their profession to plan, incite or organise individuals to disrupt social order'. In August 2017, China's Minister for Justice convened a four-day



conference for criminal defence lawyers, where he called on them not to speak publicly about cases outside the courtroom and said lawyers would be subject to 'harsh discipline' for contravening regulations.

3.73 Several sources claim the Chinese authorities use restrictions on freedom of movement to try to silence activists. According to the US State Department, the Chinese government has increased its use of unofficial house arrests or denial of permission to travel for those individuals considered politically sensitive (see also [Involuntary and enforced disappearances](#) and [Arbitrary Arrest and Detention](#)). The authorities have targeted a broadening range of activists, including but not limited to those working to improve workers' and women's rights, those protesting against pollution, and those exposing official negligence or abuse of power.

3.74 DFAT assesses that human rights lawyers and other rights activists face a high risk of official discrimination in China.

Protesters/petitioners

3.75 An estimated 180,000 popular protests (of more than 10 people) occurred in China in 2010, the last date for which official data is available. Most protests concern land disputes, housing problems, industrial, environmental, and labour matters, and government corruption. Others are provoked by accidents or related to personal petitions, administrative litigation, and other legal processes. Duihua's Mass Incidents Database records 13,305 incidents involving 3,396 arrests in 2017 to 31 May.

3.76 Despite recent reforms leading to improved legal protections for property ownership and compensation for expropriated land, protests and petitions related to land seizures by officials and the conduct of developers remain common in China. According to the State Bureau of Letters and Calls (the national department responsible for local petitioning offices), an estimated four million disputes over expropriated land and property demolitions occur every year. DFAT considers credible reports describing aggressive, and sometimes violent, action by private security contractors hired by property developers to manage protesters.

3.77 China's Constitution and *State Compensation Law* enables citizens to seek compensation from the state but the public's confidence in the judicial system and ability to afford lawsuits is generally low (see also [Judiciary](#)). The Chinese government encourages Chinese citizens to submit complaints through government-controlled websites and local petitioning offices. Under regulations promulgated in 2014, the central government no longer accepts petitions that should be lodged at local government level. The regulations include measures designed to improve transparency and responsiveness.

3.78 In practice, the treatment of individual cases depends heavily on the attitude of local officials towards the individuals and circumstances in question, making it difficult to generalise. A series of protests in 2011 in Wukan, a village of 20,000 people in Guangdong province, over land appropriation led to the resignation of local officials and direct elections of village office-holders. While hailed at the time as a sign of greater openness to democratization, in 2016 provincial authorities arrested the popularly elected local chief, sparking further protests. In contrast to 2011, authorities violently suppressed the 2016 protests and excluded foreign media (including from Hong Kong), some of whom claimed themselves to be victims of police violence while attempting to cover the event. Police blockaded the village, preventing access to goods and services, and local leaders received lengthy sentences (up to ten years in prison) for their role. As of November 2017, the village remained under lock-down.

Civil society organisations (CSOs)

3.79 In 2016, the Chinese government passed two laws affecting the management of CSOs in China: the Law on the Management of Foreign Non-Governmental Organizations' Activities Within Mainland China (Foreign NGO law), and the Charity Law of the People's Republic of China (Charity Law). The two laws set out procedures for registration, supervision and management of CSOs, and sets out the types of activities allowed, as well as rules for fundraising. Under the Charity Law, the Ministry for Civil Affairs and local civil affairs bureaux are responsible for registering and supervising domestic CSOs. Some domestic CSOs have welcomed the clearer procedures outlined in the Charity Law for registration and management of charities, and the clear designation of the Ministry of Civil Affairs as the responsible agency. Others have criticised the ill-defined requirements that charities 'must not violate social morals, and must not harm national security, the societal public interest or the lawful rights and interests of others'.

3.80 The Foreign NGO law governs CSOs with foreign connections, and all foreign NGOs including those from Hong Kong and Macau. The law covers a broad range of foreign organisations working in China, including educational institutions and foreign chambers of commerce. Under the law, the Ministry for Public Security and local Public Security Bureaux are responsible for registration and oversight of foreign NGOs, and have broad powers to enter premises and acquire documents and equipment if the NGOs are suspected of illegal behaviour or 'other situations that endanger state security or damage the national or public interest'. According to the Ministry of Public Security, 236 of the 7,000 foreign NGOs estimated to operate in China had registered by the end of October 2017.

3.81 DFAT assesses that employees of registered CSOs can operate free from official and societal discrimination as long as they work within tight government restrictions and refrain from engaging in activities considered politically sensitive. DFAT is not aware of any publicly available listing of registered CSOs. In the recent past, the government appeared to encourage CSO activity in certain non-sensitive areas, notably poverty and social programs, and delivery of health services. Recent arrests of activists in areas such as domestic violence and assistance to migrant workers suggest the range of activities considered sensitive is increasing. There are no clear criteria to assess what may trigger reconsideration of the sensitivity of a previously tolerated activity.


3.82 People working for unregistered CSOs are at moderate risk of official discrimination, and it may be difficult for them to obtain legitimate employment records, work references or wages.

3.83 People associated with, or employed by, organisations whose activities are considered politically sensitive risk adverse treatment by authorities, landlords and neighbours. DFAT considers credible reports of official and societal discrimination in the form of enforced evictions, power cuts, harassment and extortion, including directed at family members (see [Political Opinion \(actual or imputed\)](#)). DFAT assesses that such people are at high risk of official discrimination, at moderate risk of societal discrimination, and at low risk of societal violence.

Media

3.84 Despite constitutional protections for freedom of speech, the CCP controls traditional print and broadcast media. According to the Committee to Protect Journalists, at least 38 journalists were in prison in China as of December 2016. China ranks as 176th out of a total 180 countries on the 2017 Press Freedom Index compiled by Reporters Without Borders.

3.85 In February 2016, President Xi Jinping called on all Chinese state and non-state media to serve the interests of the CCP. In a tour of the three largest CCP and state news organisations, he said all Chinese media must be part of the 'Party family' (literally, must 'bear the surname of the Party'). The Chinese



government blocks broadcast of foreign television in China except by cable to a limited audience (which are, nevertheless, also subject to censorship), which includes authorised public servants, authorised academics and business executives, and international hotels rated at four stars or higher. The State Administration for Radio, Film and Television (SARFT) strictly regulates domestic content. News must derive from state-approved sources and SARFT censors fictional and historical content. Content showing the CCP or government in a poor light as well as explicit sexual material (and all same-sex material) has long been prohibited. Recently, restrictions have expanded to include all sexual references, underage drinking, and blurring lines between ‘truth and falsehood, good and evil, beauty and ugliness’. The lack of precision in the guidelines allows censors broad latitude. In March 2016, SARFT and the Ministry of Industry and Information Technology issued *Regulations on the Management of Internet Publishing Services* prohibiting foreign companies from disseminating content on-line, including text, maps, games, animation, audio and video. Foreign-owned companies can publish material in joint venture with a Chinese partner, but only with government approval.


3.86 The Chinese government heavily censors news media. The government routinely suppresses reporting of sensitive events, such as disasters – particularly when not naturally caused, or when attributable to or exacerbated by official laxity or corruption. If news gets out (often on social media), official media are quick to revert to a government line. The government has recently targeted even CCP publications that question central policies, changing the management of a liberal magazine in July 2016. The government has told financial journalists and financial analysts to ensure their reporting does not ‘talk down’ Chinese economic conditions or policy measures: one financial journalist was jailed in 2015 for reporting in unfavourable terms on the government’s response to a stock market crash.

3.87 DFAT assesses that journalists working for China’s domestic media also practise a high degree of self-censorship. Journalists and editors who transgress officially sanctioned lines risk official harassment, which may include loss of employment or imprisonment, depending on the perceived severity of the transgression. State scrutiny of media ‘loyalty’ and, consequently, media self-censorship is particularly intense for significant anniversaries, such as those relating to the 1959 Tibetan uprising, the 1989 Tiananmen protests, and significant events such as meetings of the National People’s Congress or the Communist Party Congress.

Internet and the Social Credit System

3.88 While the rise of the internet has created a non-traditional space for the expression of political opinion in China, authorities have developed and applied increasingly sophisticated methods to limit on-line expressions of dissent. The Freedom House ‘Freedom on the Net’ 2016 report rated China as the most restrictive country in the world in terms of internet access for its estimated 650 million internet and social media users. China’s security apparatus invests heavily in monitoring and controlling the internet, with many foreign websites (including Facebook, Twitter, Google and many foreign media sites) blocked. Recent regulations have also cracked down on the use of virtual private networks, a means by which Chinese citizens and companies have gained access to banned sites by routing their searches through a foreign server. Companies must now apply for permission to use such networks, and must demonstrate a business requirement. The Cybersecurity Administration monitors all use of approved networks. Since the entry into force of China’s *Cybersecurity Law* in June 2017, all users of Chinese social media accounts must register with their real names. The Chinese government has required real name registration for email and internet users since 2015. Since August 2017, all comments posted on websites or social media must carry real name identifiers, in order to ‘safeguard national security and the public interest’.

3.89 The Chinese government reportedly employs up to 2 million people to police the internet and post pro-government comments, and encourages netizens both to post positive comments and to report negative ones. Chinese social media accounts operated offshore (WeChat and Weibo) are also censored, although to



a lesser extent than on-shore accounts. Censors are quick to block trending words designed to circumvent controls, and satire directed at CCP leaders. Recent examples of prohibited subjects include the death of Nobel Laureate Liu Xiaobo (see [Deaths in Custody](#)), references to the 1989 suppression of protests in Tiananmen Square in Beijing, and any references to the 2015 crackdown on human rights lawyers ('709' incident – see [Human Rights Defenders \(including Lawyers\)](#)). Censored posts have been used in court as evidence of public order and subversion offences (see [Ethnic Uighurs](#)).

3.90 In September 2013, a court judgement ruled that an author of an internet post could face up to three years in prison if their post was reposted more than 500 times, read more than 5,000 times, led to mass protests, instigated ethnic or religious clashes, damaged the country's image or caused 'a bad international effect'. Since then, authorities have detained and tried popular bloggers, particularly where they have drawn attention to abuses of power, including at a local level. In some cases, bloggers have spent up to two years in residential detention (see [Arbitrary Arrest and Detention](#)).

3.91 China began testing a Social Credit System in 2015 that would track citizens' financial, legal and social activities and distil their behaviour into a single 'trustability' score, able to affect many facets of life, from obtaining bank loans to using library cards. The giant Chinese e-commerce company, Alibaba, is reportedly using its large customer database to pilot aspects of the system. The CCP has said the system, which could be rolled out across much of China by 2020, would enable millions of people lacking access to financial services to receive them, and would address the current high levels of social distrust among Chinese citizens. Critics express concern this may lead to greater self-censorship, increased suppression of online dissent and an increasingly fearful society.

3.92 People who post comments contrary to the wishes of the government and the CCP currently face censorship. In areas that have implemented 'social credit', such people suffer reductions in their 'social credit'. Censorship of the internet in China is extensive. New regulations make the 'creator' of a group chat responsible for its content. DFAT assesses that people who repeatedly post unapproved material are at high risk of attracting adverse treatment by authorities, including possible criminal charges or threat of charges.

Women

3.93 Article 48 of the Chinese constitution states that women 'enjoy equal rights with men in all spheres of life'. The *Law on the Protection of Women's Rights and Interests* provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. Under the *Provisions on Female Labor Protection under Special Circumstances*, women are eligible for 98 days of paid maternity leave. Despite these measures, the US State Department documents continuing discrimination in education and work, sexual harassment, unfair dismissal, demotion, and wage discrepancies. On average, women reportedly earn 35 per cent less than men. Women remain under-represented in senior CCP and government positions, holding only 23.4 per cent of the total number of seats in the National Party Congress in 2013 and one of the 25 seats in the current Politburo. Unmarried mothers face particular difficulties (see [People affected by Family Planning Policies](#)), as do lesbian, bisexual and transgender women (see [Sexual Orientation and Gender Identity](#)).

3.94 According to the Chinese Centre for Disease Control and Prevention, in 2012, women committed suicide at a rate three times that of men. Anecdotal evidence from hospital emergency departments suggests this situation is improving as women have better opportunities to move to cities. China remains the only country in the world where female suicides outnumber male suicides. Rape is illegal and penalties range from three years in prison to a death sentence, but spousal rape is not illegal. According to the All-China Women's Federation (the state-run women's organisation), one quarter of married women in China have

experienced violence in their marriage. Ten per cent of homicide cases in China relate to domestic violence. Due to under-reporting, these figures are likely to understate the actual situation.

3.95 On 1 March 2016, a law against domestic violence came into effect. Several NGOs working on women's issues welcomed the law but reported that implementation was inconsistent, and that authorities, including police, lacked awareness of the law. The government has opened domestic violence shelters in the municipalities of Chengdu, Dazhou, Nanjing, and Zhengzhou. According to anecdotal reports, domestic violence continues to be seen as a private household matter and a source of shame, so often goes unreported. Where cases are reported, authorities are reluctant to enforce the new law. According to data released in October 2013 (prior to the new anti-domestic violence law) by a Beijing court, Chinese courts recognise fewer than 20 per cent of domestic violence claims brought before them. Refusal to accept cases of domestic violence brought before the courts reflects difficulties in collecting and verifying evidence. Statistics from provinces such as Guangdong and Shandong indicate even lower rates, ranging from two to 15 per cent.


3.96 Overall, DFAT assesses that women in China face a low risk of official discrimination, and a moderate risk of societal discrimination. Women in China face a moderate risk of societal violence, particularly domestic or intimate partner violence.

Sexual Orientation and Gender Identity

3.97 China's laws do not explicitly criminalise private consensual same-sex activities between adults. However, the Chinese government does not recognise de facto or same-sex partnerships and China's *Marriage Law* recognises marriage only between a man and a woman. Homosexuality and bisexuality were removed from the Ministry of Health's list of mental illnesses in 2001; however many lesbian, gay, transgender, bisexual and intersex (LGTBI) people report being forced into 'conversion therapy' by family members (although advertising and providing conversion therapy services is now illegal). China's existing anti-discrimination regulations do not explicitly deal with sexual orientation and gender identity relating to lesbian, bisexual or transgender people. A small number of hospitals deliver sex-reassignment surgery for transgender people but individuals are required to complete 12 months of psychotherapy before undergoing the surgery. National laws allow transgender people to change their gender on ID cards and household registration if they have undergone full sex-reassignment surgery. Individuals may not change their gender on other official documents, such as educational certificates. Censorship laws explicitly ban same-sex content in any form in movies and television (see [Media](#)). No laws or national regulations prohibit workplace discrimination based on sexual orientation and gender identity, and a 2016 UNDP survey finds such discrimination common. According to the UNDP survey, discrimination against LGBTI individuals occurs most often in the family, followed by schools and workplaces.

3.98 Similar to other civil society organisations working on issues perceived by the government to be sensitive, LGBTI civil society organisations can experience difficulties registering legally, receiving funding and arranging public advocacy activities. Public opinion regarding homosexuality is gradually becoming more tolerant (particularly in China's larger cities and regional urban hubs), but remains predominantly negative. UNDP reported that only around 15 per cent of LGBTI people disclose their sexual orientation to their family, and only around five per cent outside of their families.

3.99 DFAT assesses that societal discrimination against LGBTI people exists but varies in frequency and severity depending on the location. People in larger, wealthier cities in China, such as Beijing, Shanghai and Guangzhou, have greater tolerance for LGBTI people. Larger cities are starting to have LGBTI-friendly media and clubs. In June 2017, authorities permitted an International Pride Film Festival in Guangzhou, but the Public Security Bureau disrupted or cancelled some events. Public displays of affection between same-sex



couples and heterosexual couples are discouraged. Smaller, more rural communities can be less accepting of LGBTI people owing to traditionally conservative views and a lack of education, although DFAT notes a lack of data regarding the attitudes of people in China's rural and western regions towards LGBTI issues. Some members of the LGBTI community have expressed concern that a rise in Christianity in China is leading to a rise in negative perceptions of homosexuality.

3.100 Societal violence against LGBTI people is generally low, although lesbian and bisexual women are at risk of violence by family members and spouses. The 2016 anti-domestic violence law does not include same-sex partnerships. According to a 2009 survey of 900 lesbian and bisexual women about family violence, 48.2 per cent reported violence and abuse from parents and relatives, including involuntary committal to psychiatric wards. LGBTI individuals can be at risk of domestic violence by family members who do not accept their gender identity or sexuality. As a result, according to LGBTI NGOs, the rates of mental health issues amongst the LGBTI community are high.

3.101 DFAT assesses that LGBTI people face a moderate risk of official discrimination and a high risk of societal discrimination, particularly within their own families and in schools and workplaces. LGBTI individuals in rural areas or smaller cities face a higher risk of societal discrimination than those in larger and wealthier cities. LGBTI people face a low risk of official violence. Lesbian, bisexual and transgender women are at high risk of violence by family members.

People living with HIV/AIDS

3.102 Figures issued by the Ministry of Health in 2016 indicate there were 600,000 people diagnosed with HIV in China. At the end of 2015, new infections arising from homosexual transmission were 11.5 per cent higher than in 2014. The *Regulations on the Prevention and Treatment of HIV/AIDS* state 'no organisation or individual shall discriminate against HIV/AIDS infectors or patients or their families, and that HIV/AIDS patients enjoy the rights to employment, medical care and others'.


3.103 Despite these measures, a lack of understanding and public anxiety associated with HIV/AIDS issues has led to widespread stigma and discrimination, affecting employment, education, housing and access to health care. People living with HIV cannot work in the civil service and some businesses test employees and dismiss those who test positive for HIV.

3.104 DFAT assesses that people living with HIV/AIDS are at moderate risk of official and societal discrimination in China. DFAT has no information about violence against persons living with HIV/AIDS.

People affected by Family Planning Policies

3.105 China has had nation-wide family planning policies since the late 1970s. China's *Population and Family Planning Law* (Population Law) came into force on 1 September 2002. Until 2015, the state encouraged late marriage and childbearing and mandated one child per couple, although couples could have more than one child where: both spouses were sole children; the first child had a disability; both spouses were members of ethnic minorities; or, for rural residents, the first-born child was a girl. From 2013, couples could have two children if either spouse was a sole child. Legislation requires government departments, state media and schools to advocate family planning policies.

3.106 Concerned about its ageing population, the National People's Congress amended the Population Law with effect from 1 January 2016. Changes included the full implementation of a 'two child' policy (subject to other health, age and timing requirements), the abolition of forced contraception, and changes to certain leave entitlements for parents (including maternity and paternity leave). The National Health and Family



Planning Commission, the body responsible for overseeing the policy, reported that 2016 saw the largest annual number of births since 2000. Lower level governments down to neighbourhood and village committees are responsible for implementation of the two-child policy. Interpretation and implementation of the policy varies enormously across China (for more detailed information on Fujian province see DFAT's Thematic Report on Fujian Province, published 15 December 2016).


3.107 Authorities enforce compliance with family planning regulations through both incentives and punishments. Social compensation fees (also called 'social maintenance fees') are the most common disincentive. Authorities calculate fees according to 'last year's local disposable annual income per capita' in urban places, and 'the net annual income per capita' in rural places. Average annual disposable incomes for urban residents and net average incomes for rural areas differ according to the county, city or district. The parents of each unapproved child must pay the social compensation fee. In some cases, this can amount to up to ten times a person's annual disposable income. In some provinces or counties, authorities have imposed fines on entire work units in addition to the individuals concerned. However, credible information on the actual fees charged is difficult to obtain as they are subject to local discretion (leaving open the possibility of individual or institutionalised manipulation). Both the previous and amended Population Law require those who give birth to a child in contravention of family planning policies (including second children born before 1 January 2016) to pay a social compensation fee, irrespective of household registration status. DFAT assesses that inconsistent and non-transparent application of fees leaves open the possibility of individual or institutionalised corruption.

3.108 County-level governments collect the revenues from fees. The national law does not set out a fee schedule that applies to all localities. Instead, provinces formulate their own rules on specific fines based on the basic social compensation fee measure outlined above. Local authorities can decide whether to impose a more lenient fine if parents report an out-of-policy birth soon after it occurs. Authorities are likely to apply heavier penalties for uncooperative behaviour such as hiding children, and can apply additional surcharges to those who fail to pay the required fee. The local family planning bureau and employers may pressure the parents of out-of-policy children. Awareness of the fees is widespread and, in many cases, couples wishing to have an additional child will save the required social compensation fee in order to do so. In these cases, social compensation fees operate as an additional tax, rather than as a punitive arbitrary measure.

3.109 The *hukou* (or household registration) system ties access to services including health and education to an individual's place of birth or, in some circumstances, their parent's place of birth (see [Human Rights Defenders \(including Lawyers\)](#)). According to national law, children born before 1 January 2016 have a right to household registration and access to health and education services. Some provinces, including Fujian, Shandong and Zhejiang, prohibit local authorities from requiring payment of social compensation fees as a prerequisite for accepting an application for a *hukou*. Children whose unauthorised birth might previously have gone unregistered are now by law able to apply for a *hukou* irrespective of whether their parents have paid the relevant fees.

3.110 In practice, implementation at the local level of these laws and regulations (including provincial regulations) varies. Parents denied registration in contravention of provincial regulations or national law can, in theory, seek legal redress, but are then subject to the general conditions governing protection against abuse of power by officials (see [Judiciary](#)). Chinese authorities have regarded public opposition to family planning policies as provocative and treated petitioners and their advocates as political opponents (see [Political Opinion \(actual or imputed\)](#)).

3.111 DFAT is aware of media reports that authorities have employed coercive practices (such as forced abortions, sterilisations or invasive medical inspections) in order to force compliance with family planning policies. DFAT considers credible local and international NGO reporting suggesting the incidence of coercive



practices has reduced since the introduction of the two-child policy. There are, however, no reliable data on the frequency of coerced or forced abortions or sterilisations.

3.112 Although China's Marriage Law states that children born outside of marriage have the same rights as those born to married parents, children born out of wedlock continue to be considered to be 'outside of policy' under the two-child policy. Single mothers must pay social compensation fees and all medical expenses associated with giving birth. State subsidies for maternal and child services are available only with the permission of family-planning authorities, who require a proof of marriage. As a consequence, many single mothers give birth outside of medical facilities with associated complications for both mother and child. Single mothers can find it difficult to obtain birth certificates. Children born outside of policy are not eligible for *hukou* and the health and education services that registration provides.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

4.1 Article 37 of China's Constitution states that 'freedom of the person' of citizens of the People's Republic of China is inviolable. Human rights groups have claimed that police in western China have used lethal force to disperse unarmed groups of Uighurs and Tibetans protesting against religious restrictions. Restrictions on foreign access to these regions have made it impossible for DFAT to verify these claims.

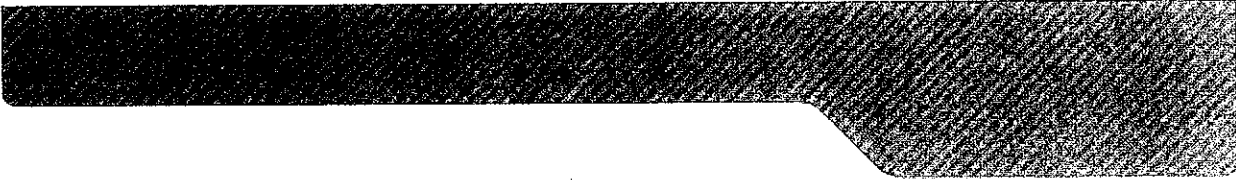
Deaths in Custody

4.2 A number of high profile deaths in custody have occurred in China in recent years. Media and NGO reports of deaths in custody include deaths caused by denial of access to proper medical care. While most high-profile deaths in custody have involved political prisoners (including, in July 2017, of Nobel Peace laureate Liu Xiaobo), some appear to have involved lower level police brutality. Some cases seem to have involved mistaken identity. The Chinese government denies that it holds prisoners for their political views, claiming that they are common criminals who have violated the law. The government also denies mistreatment of prisoners, although it has refused to release the bodies to families of some high profile detainees. In lower profile cases, police have claimed that video and audio footage from police devices and surrounding closed circuit security cameras was unavailable due to device malfunction. Where authorities have announced investigations into police misbehaviour, the results are generally not made public (see [Police](#)). In one high-profile case, the courts ordered that officers face internal discipline.

INVOLUNTARY AND ENFORCED DISAPPEARANCES

4.3 Chinese law permits security agencies to detain suspects without charge for varying lengths of time during an investigation, with the conditions dependent on the nature of the offence investigated (see [Arbitrary Arrest and Detention](#)). Police have broad powers of administrative and 'residential' detention during investigations relating to national security or intelligence matters, as defined by the CCP or state agencies. In the course of the anti-corruption campaign, the CCDI has arrested and detained many Party members suspected of corruption, holding some for several months before delivering them to the state criminal justice system (see [Corruption](#)).

4.4 The authorities' extensive powers of arrest and detention apply to children as well as adults: the then 6-year-old Gedhun Choekyi Nyima disappeared with his parents in 1995, after the current Dalai Lama recognised him as the reincarnation of the Panchen Lama, Tibet's second most senior spiritual leader. The Chinese authorities declared the nomination invalid and installed another 6-year-old, Gyaltzen Norbu, as Panchen Lama in his place (see [Tibetan Buddhists](#)). No international observer (diplomatic, media or NGO) has seen Gedhun Choekyi Nyima since 1995. The then 16-year-old son of a '709' lawyer (see [Human Rights Defenders](#) (including Lawyers)) was arrested in 2015 at Beijing airport on his way to school in Australia, and



again later that year on the Chinese-Myanmar border. In November 2017, he was denied exit from Beijing airport while again seeking to travel to Australia for study.

4.5 Several lawyers and legal assistants disappeared in 2015 during a crackdown on human rights defenders (called the '709' lawyers, as a large number disappeared on 9 July 2015 (see [Human Rights Defenders \(including Lawyers\)](#)). Some have subsequently been released (some after public confessions); others have been tried and sentenced. In some cases, detainees and their families have made allegations of torture (see [Torture](#)).

4.6 DFAT is aware of Tibetans and Uighurs who have disappeared into official custody in recent years. Some have later appeared in court on charges of endangering state security or terrorism. Some have received lengthy sentences or the death penalty (see [Ethnic Uighurs](#) and [Ethnic Tibetans](#)).

4.7 While it is difficult to separate ethnicity and religion in relation to Uighurs, DFAT assesses that Uighurs in Xinjiang and in other parts of China face a high risk of official discrimination due to their ethnicity, particularly where authorities perceive them to be politically or religiously active (see [Muslims](#)). Uighurs in other parts of China face a moderate risk of societal discrimination due to their ethnicity.

DEATH PENALTY

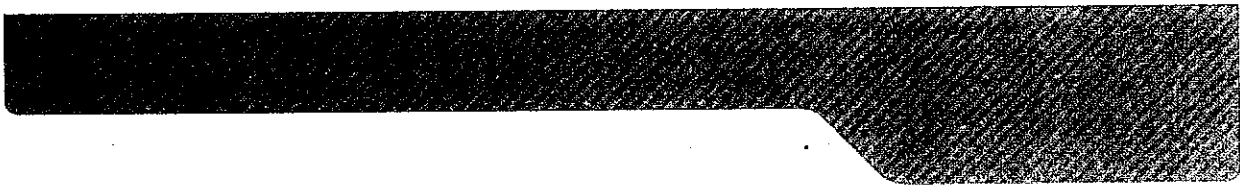
4.8 China retains the death penalty for 46 offences, reduced from 55 in November 2015 with an amendment to the Criminal Law. Capital offences include a number of economic and non-violent crimes such as corruption and drug-related offences. Capital crimes include; 'endangering public security' (such as arson, hijacking or the selling or producing of fake medicines) and 'infringing upon citizens' right of the person and democratic rights' (including homicide, rape, and trafficking). According to Article 347 of the Criminal Procedure Law, individuals found guilty of trafficking narcotics in quantities of 50 grams or above shall be punished with 15 years' imprisonment, life imprisonment, or death. Pregnant women and people who are aged under 18 or over 75 years at the time the crime is committed are exempt from the death penalty. All death sentences are subject to the approval of the Supreme People's Court and the court must provide a lawyer to any individual facing the death penalty if they do not already have one. According to the US State Department, executions have followed criminal proceedings that lacked due process or appeal channels. In some highly publicised cases, the Supreme People's Court has posthumously reversed death penalty verdicts after finding either police or prosecutorial misconduct, or other irregularities in the process leading to execution.

4.9 Courts can impose either a death sentence (without reprieve) or a death sentence with a two-year suspension of execution. The latter punishment can be commuted to life imprisonment at the end of the two-year period if no other intentional crimes have been committed during the period of suspension. A person who demonstrates 'meritorious service' during their suspension period may receive a reduction of sentence to 15 to 20 years' imprisonment.

4.10 The Chinese Government's 2016-2020 Human Rights Action Plan states an intention to strengthen the process and oversight of the death penalty. In its 2013 Universal Periodic Review Report, China confirmed it would reduce the use of the death penalty. The number of executions in China remains a state secret: Duihua estimates 2,000 people were executed in 2016 (compared to 2,400 in 2013).

TORTURE

4.11 China ratified the Convention Against Torture in 1988. Chinese law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and



beating or encouraging others to beat prisoners. Amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases, took effect on 1 January 2013.

4.12 In January 2016, the UN Committee against Torture, in its concluding observations on the Fifth Periodic Report of China, welcomed the 2013 legislative changes but expressed concern over a number of continuing practices in China that the Committee assessed to increase the risk of torture of detainees. These practices include: lengthy pre-trial detention; denial of access to a private lawyer and withholding of information from the detainee's family in cases deemed 'endangering state security', 'terrorism' or serious 'bribery'; 'residential surveillance' (see [Arbitrary Arrest and Detention](#)); the lack of independence of medical practitioners examining detainees; revisions to laws that prohibit (undefined) 'conduct that disrupts court order'; lack of judicial or procuratorial oversight of criminal investigations; lack of information on past investigations of allegations of torture by security officials; unexplained deaths in custody; solitary confinement and use of restraints; a lack of information on inspection of detention facilities; exclusion of matters relating to 'State secrets' from the government's reporting on torture; and the broad definition of many offences, including 'endangering State security', 'picking quarrels and provoking troubles', and 'gathering a crowd to disturb social order'.

4.13 Family members of the '709 lawyers' (see [Human Rights Defenders \(including Lawyers\)](#)) wrote an open letter to world leaders on 1 March 2017 detailing allegations of mistreatment of their family members while in detention. The allegations include: forced consumption of drugs, marathon interrogation sessions and sleep deprivation; beatings; the application of heavy weights on legs; being almost entirely submerged in water for several days at a time; and threats and detention of family members. Individual lawyers detained during the '709' crackdown have also detailed allegations of mistreatment at the hands of the authorities.

4.14 Falun Gong practitioners have reported mistreatment in custody including sleep deprivation, enforced standing and kneeling for extended hours, nasal feeding (forced feeding through a tube inserted into the nostril), being forced to drink dirty or salty water, shackling and beatings. International human rights reporting continues to document use of psychological pressure against Falun Gong practitioners.

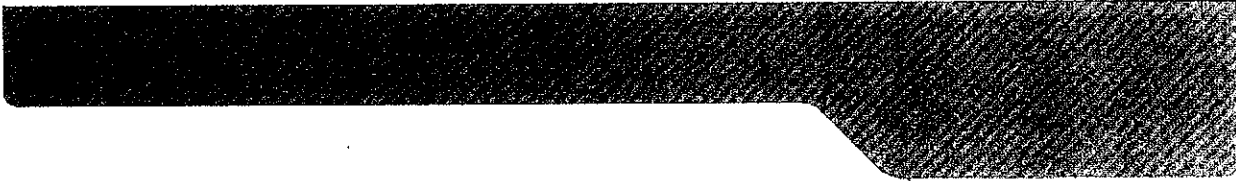
4.15 DFAT considers allegations of torture, particularly those detailed in cases deemed politically sensitive, to be credible.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.16 The Ministry of Public Security manages pre-trial detention procedures. Such procedures are not subject to judicial oversight. Security agencies can hold individuals for years while they progress through the charge, arrest, investigation, court hearing and sentencing processes. Individuals convicted of an offence do not move into the prison system until their case is finalised, including any appeal processes. Time served in a detention centre is deducted from their custodial sentence.

4.17 Amendments to China's Criminal Procedure Law, which took effect in January 2013, require the prompt delivery of suspects to detention facilities following arrest. The law stipulates that interrogations must take place in the detention facility, and must be recorded in audio and video. The revised law also requires judicial officials to investigate cases of extraction of confessions under torture.



4.18 Under the 2013 Criminal Procedure Law, police may detain individuals in ‘residential detention at a designated place’ (also called ‘black jails’) away from their home for up to six months, for investigations relating to endangering state security, terrorism, or serious bribery. Authorities must notify relatives of individuals placed under formal arrest or residential surveillance in a designated abode within 24 hours, unless notification is impossible. The notification does not need to specify the reason for or location of detention. Suspects do not have the right to meet defence lawyers in these categories of cases. In cases involving state security or terrorism, police are authorised to detain a suspect after arrest for up to an additional seven months while investigating the case. Following investigation, the procuratorate has an additional 45 days to determine whether to file criminal charges of detention, during which time detention can continue. The law explicitly allows detainees to meet with defence counsel before criminal charges are filed but this rarely happens where cases are considered politically sensitive. After filing charges, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. ‘Residential detention at a designated location’ has been criticised for exposing detainees to risk of mistreatment (see [Torture](#)).


4.19 Chinese police have broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charge. Police can hold individuals for up to 30 days in criminal detention before deciding whether to pass the case to prosecutors, and for an additional seven days prior to formal arrest. Police detention beyond 37 days requires prosecutorial approval of a formal arrest and notification of family members within 24 hours of detention. The law permits officials not to provide notification if doing so would ‘hinder the investigation’ or for cases pertaining to ‘national security, terrorism, and major bribery’. During periods and anniversaries considered politically sensitive, authorities often detain activists without charge for the full 37-day period (see [Acronyms](#) for an indicative list of sensitive dates). DFAT considers credible reports that Chinese security authorities use extra-legal detention for politically sensitive investigations.

4.20 The Chinese government abolished its ‘re-education through labour’ policy in December 2013. Public security authorities continue to use other forms of administrative detention to suppress political and religious dissidents, sex workers, drug users and petitioners. Authorities also detain family members of dissidents: poet Liu Xia, widow of Nobel Peace laureate Liu Xiaobo, has been under house arrest since her husband’s nomination for the Nobel Peace Prize in 2010 (see [Deaths in Custody](#)). Authorities have also curtailed the freedom of family members of ‘709’ lawyers (see [Human Rights Defenders \(including Lawyers\)](#)) and Uighur and Tibetan activists (see [Ethnic Uighurs](#) and [Ethnic Tibetans](#)). Chinese law does not provide for house arrest. Individuals facing this type of detention do not have the right to legal counsel or due process.

Treatment of Party and public officials

4.21 At the 19th Congress of the Chinese Communist Party in October 2017, President Xi announced the abolition of a parallel system of detention, called *shuanggui* or ‘double/parallel rules’, run by the CCDI and applied to Party members suspected of disciplinary violations. The CCDI had extensively used *shuanggui* in the anti-corruption campaign (see [Corruption](#)). *Shuanggui* was not subject to the normal rules governing criminal detention or prosecution and human rights groups had criticised its lack of transparency, which they argued increased the risk of torture or mistreatment. *Shuanggui* is to be replaced by a different form of detention but it is unclear how it will apply, and how it will differ from *shuanggui*.

4.22 A draft *National Supervision Law*, published in November 2017, codifies many of the procedures previously followed by the CCDI. The draft law explicitly forbids collection of evidence by threats, intimidation or physical violence, and requires interrogators to retain audio-visual records (Article 42). The draft law further provides a time limit of three months, extendable to six months, for holding detainees in custody for the purposes of interrogation, and for family members to be informed within 24 hours except where it would impede the investigation (Article 41). The draft law does not, however, provide for independent oversight of the conduct of supervision officials. Defendants or family members who have



complaints about the conduct of a case can only appeal to the supervision organ itself or a higher level of the supervision administration (Article 62). While the law is still in draft form, the National People's Congress Standing Committee decided in November 2017 to begin implementing it across the country as a 'test'.

Detention conditions

4.23 Chinese law provides for prison accommodation to be ventilated, clean and warm with natural light. Prisons are required to provide adequate medical, living, and sanitary facilities. In practice, there is no independent monitoring of the prison system and the lack of transparency into China's legal system makes it difficult to make generalised assessments of prison conditions. In general, conditions vary depending on the location, resources available, training of prison or detention guards, and perceived level of political sensitivity and profile of the individual concerned. Foreign prisoners who receive consular visits generally receive better treatment in detention than locals.

4.24 Conditions can be overcrowded, and detainees can be required to sleep on the floor and be denied regular exercise. Meals are regularly served but nutritional quality is poor and quantities are small. Many detainees rely on supplemental food, medicines and warm clothing provided by relatives. Prison officials sometimes deny these privileges as a form of punishment, particularly for political dissidents (see [Torture](#)). Prisoners do not always receive adequate medical care (see [Deaths in Custody](#)). Conditions in administrative and pre-trial detention facilities are often worse than those in prison.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 China's Constitution (Article 5) states that 'no laws or administrative or local regulations may contravene the Constitution. All State organs, the armed forces, all political parties and public organisations and all enterprises and institutions must abide by the Constitution and other laws. All acts in violation of the Constitution or other laws must be investigated. No organisation or individual is privileged to be beyond the Constitution or other laws'.

5.2 There is no organisation in China tasked with enforcement of the Chinese constitution and Chinese courts do not have the general power of judicial review which would allow them to invalidate laws on the grounds they violate the Constitution. The Constitution states the National People's Congress and its Standing Committee have the power to review laws that violate the constitution, but in practice, these powers are rarely exercised, with only one instance of regulations being rescinded.


5.3 China has explicitly rejected "Western notions" of separation of powers and judicial independence. While China has undertaken significant reform to minimise officials' interference in lower-level court cases and professionalise China's judiciary, Chinese courts remain subject to a variety of internal and external controls that limit their engagement in independent decision-making.

Military

5.4 China has the largest active military service in the world. The People's Liberation Army (PLA) reports to the Party's Central Military Commission, which is headed by President (and Party General Secretary) Xi Jinping. The PLA currently has over two million members, almost all of whom are Party members. It serves the Party, rather than the Chinese state. The PLA has shrunk significantly from an estimated three million active personnel in 1992. It continues to decrease as it seeks to improve the quality of its staff and systems. The PLA has five branches of service: Army, Navy, Air Force, Rocket Force (strategic missile force) and Strategic Support Force (space and cyber forces). China reported spending 1.28 per cent of GDP on the military in 2016. Actual military expenditure is regarded as a state secret. The military service age is 18-24 years. China operates selective compulsory military service, with a two-year service obligation. All officers are volunteers and there is no minimum age for voluntary service. The PLA has not been deployed against Chinese citizens in China since June 1989, when PLA units killed several hundred protesters in Beijing's Tiananmen Square and surrounding areas.

Police

5.5 China's Ministry of Public Security oversees the police force, which is organised into specialised police agencies and local, county, and provincial jurisdictions. China no longer publicises the size of its police force, but media estimates place the number at around two million. The People's Armed Police, a paramilitary force responsible for internal security issues such as riots, terrorist attacks, natural disasters and



other emergencies, has an estimated 660,000 members. Police undertake four-year training programs that include courses in procedural law and public order, as well as extensive physical training. Performance is statistics-driven and a national ranking system provides incentives for compliance. Local-level police are generally entitled to receive housing and food allowances as part of their monthly salaries, which are calculated according to local conditions rather than a national standard.

5.6 Maintaining public order and social stability – defined as defending CCP rule – are the key priorities of the police force in China, and outweigh protection of the public from criminal activity. Regular police do not generally carry firearms but can do so in areas of heightened security (such as in Xinjiang and Tibet). Reflecting the power held by the Ministry of Public Security, procuratorate oversight of the police is limited, localised and ad-hoc.

5.7 Chinese citizens have the right to lodge complaints against the police in their city of residence through a telephone hotline, online complaints website, in person, or in writing to the Public Security Bureau Complaints Office. Local authorities have targeted petitioners (including those with complaints against police) with punishments including arrest and detention (see [Protesters/petitioners](#)). Complaints against police rarely lead to disciplinary action and, where investigations are announced, their outcomes are not publicly released (see also [Deaths in Custody](#)).

5.8 China has taken some positive steps to protect individual rights through amendments to the Criminal Procedure Law prohibiting the use of confessions obtained under torture as evidence, and requiring interrogations in major criminal cases to be audio and video recorded. However, these protections do not apply in cases involving national security, which are investigated outside of China's criminal justice system.

Judiciary

5.9 China's 2016 White Paper on Judicial Reform includes measures to reduce political influence on courts, improve access to justice, strengthen professionalism of the judiciary, and increase transparency. In an effort to curb local corruption, new policy shifts funding of courts from the local to provincial level and courts have started recording attempts to influence proceedings. Since May 2015 there has been a mandatory nation-wide case filing system, through which courts cannot refuse to hear cases without sound legal justification. Courts now publish many routine judgements online, although coverage is patchy.

5.10 Judicial reforms implemented in recent years have led to an increase in administrative law cases, albeit from a very low base, including local cases of official abuse of power. As an example, the Shenzhen court has published figures for administrative cases showing 10,133 administrative cases in 2015, compared with 9,167 in 2014 and only 3,840 in 2013. In 2015, the government lost 381 (15.2 per cent) of 2508 lawsuits against it. While improving, these relatively low numbers even in one of China's wealthiest and most international cities (Shenzhen has a population of 12 million) indicate the difficulties faced by ordinary people in pursuing cases against officials.

5.11 DFAT assesses that a lack of separation of powers creates structural vulnerabilities within the judicial system. Judicial autonomy is limited in cases that authorities consider politically sensitive or that involve vested economic or political interests. Public confidence in the ability of courts to enforce judgements, particularly in rural areas, remains low.

INTERNAL RELOCATION

5.12 There are many opportunities for internal relocation in China and movement of people is fundamental to China's push for continued economic growth and urbanisation. While there are no legal

impediments to internal migration, the *hukou* system presents the biggest administrative impediment to freedom of internal movement.

5.13 Linguistic and cultural barriers are not an inhibiting factor for ethnically Han Chinese to move away from their place of *hukou* registration. Ethnic minorities may face varying degrees of difficulty or discrimination, depending on their ethnicity and their destination (see also [Ethnic Uighurs](#) and [Ethnic Tibetans](#)).

5.14 DFAT assesses that internal relocation is possible unless a person has attracted adverse attention from authorities at the local or national level (see [Religion, Political Opinion \(actual or imputed\) and Groups of Interest](#)). People subject to adverse attention from authorities are unlikely to be able to re-locate internally, due to the Chinese state's significant surveillance capability (see [Security situation](#)).

Hukou (household registration) system

5.15 The *hukou* system ties access to government services, such as education above a certain level and health, to a citizen's place of birth, or even their parents' place of birth, rather than their place of residence. Only an estimated 35 per cent of urban residents have an urban *hukou*. Chinese migrant workers (estimated at 282 million) who move away from rural areas for better employment opportunities, are unable to access key services and in some cases face institutionalised discrimination. An estimated 60 to 100 million children have been 'left behind', either in their grandparents' care or alone, while their parents work in cities. The government is committed to reforming the *hukou* system, including extending urban residency permits to migrant workers. The Ministry of Public Security reported 28.9 million new urban residency permits issued in 2016, mostly in third or fourth tier cities. The local governments of the largest cities, including Beijing, Shanghai, Guangzhou, Shenzhen, Chengdu, Wuhan and Xi'an, have tough restrictions on granting new *hukou* permits given the already high populations and overburdened infrastructure in these cities. Lower-tier cities (with fewer than 3 million permanent residents in downtown areas) are more willing to issue *hukou*, in line with government's aim to drive economic growth in less developed and less populated regions.


TREATMENT OF RETURNEES

5.16 China is a signatory to the 1951 Refugee Convention but does not have a refugee status determination procedure. The UNHCR, rather than the Chinese government, has the authority to grant refugee status within China. As at December 2015, China had around 200 (non-Chinese) refugees. The UNHCR and IOM are not able to provide statistics on returned refugees. The Chinese government has forcibly returned North Korean defectors, viewing them as economic migrants.

5.17 China has sought the return of Chinese nationals granted refugee status from other countries. In November 2015, the UN High Commissioner for Refugees protested to the Government of Thailand after it forcibly deported two Chinese nationals, Jiang Yefei and Dong Guangping, who had UNHCR refugee status and were awaiting re-settlement in Canada. The Thai government said it had deported the two men for immigration offences. Media reports quote an unnamed official confirming that China had requested the deportations. The two men subsequently appeared on Chinese state television confessing to charges of human trafficking.

Treatment of failed asylum seekers

5.18 DFAT is not able to verify the treatment of failed asylum seekers returned to China. DFAT has no information to suggest authorities target individuals solely for having sought asylum abroad if they have not



otherwise come to adverse attention. DFAT is unable to verify whether having sought asylum abroad would worsen the situation of individuals attracting adverse attention from authorities for other reasons. Chinese authorities are likely, however, to be aware of the behaviour of Chinese asylum seekers while they are outside of China (see [Security situation](#)). Party members or public officials who return to China to face corruption offences are subject to Party disciplinary and potentially criminal prosecution (see [Treatment of Party and public officials](#)).

Double jeopardy

5.19 Articles 8 to 12 of the Criminal Law outline provisions against double jeopardy. In practice, Chinese citizens convicted and punished for offences abroad may face punishment for the same offence on return to China. Authorities are less likely to pursue those who have committed offences overseas carrying a sentence in China of three years or less. Those convicted of offences that are more serious are more likely to be re-sentenced on return, depending on the offence and the severity of punishment served overseas: more severe punishment overseas would likely attract a lesser punishment on return. Chinese authorities have also pursued individuals for crimes for which they were acquitted abroad. In April 2017, the Kenyan government (which recognises the PRC) deported a group of Taiwanese and Chinese passport-holders in contravention of a Kenyan court order, which also confirmed their acquittal of financial crimes. While the incident in part reflects political considerations in cross-strait relations (with Taiwan), the fact that mainland Chinese passport-holders were part of the group suggests that double jeopardy can apply to Chinese citizens who are acquitted abroad. The individuals remain in detention in China, as of October 2017.

Exit and Entry Procedures

5.20 Chinese law provides for foreign travel, emigration, and repatriation. A number of agencies within the Ministry of Public Security hold responsibility for monitoring entry and exit procedures at Chinese airports, including the Public Security Bureau, the Entry and Exit Authority, and the Frontiers Inspection Bureau. China's major airports have a centralised system with name matching alert capabilities. Facial recognition technology is also widely deployed at all international checkpoints (air, land and sea). Security monitoring capabilities at airports are comprehensive, and departing passengers pass through several identity checks (including passport and ticket/boarding pass inspection) run by different agencies between arriving at the airport and boarding a flight.

DOCUMENTATION

Birth and Death Certificates

5.21 While there are no official data on unregistered births, birth registration rates are low in rural areas and for marginalised children. The 2010 census found 13 million unregistered people, mostly relating to births concealed because they violated family planning policies. In 1996, the *Law of the People's Republic of China on Maternal and Infant Health Care* introduced a nation-wide official birth certificate system. The Ministry of Public Health issues birth certificates through the hospital or facility where the child is born. Parents must register births in the police station of their *hukou*. Relevant branches of the Ministry of Public Security assess the issuing of *hukou*, and DFAT understands that family planning records are the most important documents required for this purpose. Procedures for registering deaths in China vary by area and location of death. The Ministry of Health usually issues death certificates. Death certificates are required to cancel *hukou* registration and to bury the deceased.

National Identity Cards

5.22 Citizens over the age of 16 are required to apply for identification cards while those under 16 years can voluntarily apply with the assistance of a guardian. The Public Security Bureau issues and manages ID cards according to the 2003 *Law on Resident Identity Cards*. Cards are valid for five years for children under 16, ten years for individuals aged between 16 and 25 years, twenty years for individuals between 26 and 45 years and permanently for individuals aged 46 years or older.

5.23 Use of China's latest (second generation) resident identity cards (RICs) became mandatory in 2013. RICs include the cardholder's name, sex (male or female), ethnicity, date of birth, residential address, a unique 18-digit ID number and coloured photograph. Embedded digital microchips in each card contain the same identifying information as well as work history, educational background, religion, police record, medical insurance status, landlord's telephone number, and reproductive history. Cards issued in ethnic minority areas contain corresponding text in the minority language. Han Chinese in ethnic minority autonomous regions must have text listed only in Mandarin.

5.24 Applicants must complete a Registration Form of Application for Resident Identity Card and present their *hukou* for examination by public security authorities. Costs of new or renewed cards vary according to location and the circumstances of the applicant. For example, the law exempts payment for urban residents on subsistence allowances and rural residents who live in 'specially straitened' circumstances. Breaches of the law can lead to disciplinary warnings, fines (ranging from RMB 200 to 1,000— approximately AUD 40 to 200) and up to ten days detention. Forgery of cards is a criminal offence.

5.25 Second-generation cards are reportedly difficult to counterfeit. Since 2013, the government has run trials to include fingerprints on the cards making it more difficult to forge. Places such as banks, train stations and airports have card readers. Valid ID cards are required for *hukou*, employment, opening bank accounts, obtaining passports and driver licenses, applications for tertiary study, travel by plane or train, marriages and legal cases. Internet cafes and some shops also require proof of identity.


Passports

5.26 According to the *Passport Law of the People's Republic of China* (2006), ordinary passport applicants must apply in person to the Entry-Exit Control Department of the Ministry of Public Security or the authorised county-level bureau where their *hukou* is registered. Applicants must provide their RIC, *hukou*, recent photos, and documents substantiating the reasons for their application. Once approved, a passport is generally issued within 30 days. If a passport application is refused, reasons for the refusal are provided in writing and the applicant is informed of their right to apply for administrative reconsideration or to file an administrative lawsuit. Costs of passports vary according to location but are considered affordable.

5.27 An ordinary passport records the holder's name, sex, date and place of birth, the date of issue, term of validity and place of issue of the passport, and the issuing authority. The term of validity of an ordinary passport varies according to age of the passport holder. Passports are readable visually and by computer and contain anti-forgery properties. The sale or use of a forged passport is a criminal offence.

5.28 Under the Passport Law, authorities can refuse passports to people who 'will undermine national security or cause major losses to the interests of the State'. According to Freedom House, the government has refused passports to millions of people on these grounds, many of them religious and political dissidents, including Uighurs and Tibetans. The government does not publish data on passport denials.

5.29 The Passport Law states passports can be obtained within 15 days. Uighur and Tibetan applicants, however, require approval from provincial authorities and their local public security bureau, a process that



can take time. University administrators must approve applications by Uighur and Tibetan students. DFAT is aware of cases where human rights activists, lawyers, Uighurs and Tibetans have had their passports confiscated either as punishment for their political activities or to limit the risk of such individuals causing embarrassment to the Chinese government when overseas.

PREVALENCE OF FRAUD

5.30 DFAT assesses it would be difficult to depart China on a forged passport. Chinese passports use sophisticated technology and Chinese authorities have a high surveillance capability, particularly at train stations, airports and ports. An ordinary citizen would find it difficult to bribe border protection agents because of sensitivities to corruption, and the professional and comparatively well paid status of public security officials. DFAT is aware of cases where genuine documents obtained by fraudulent means (such as *hukou* registration, proof of employment, academic transcripts, banking statements and ID cards) are submitted in support of visa applications. DFAT assesses such documents are relatively easy to obtain and are commonly used. DFAT is aware of sophisticated syndicates that provide targeted background stories to support fraudulent documents used in visa applications.